HUMAN RIGHTS IN THE HINDU-BUDDHIST TRADITION

Lal Deosa Rai

SHOUT
SHARE
IT

Born in 1937, Lal Deosa Rai was educated mainly in schools in India and the Calcutta University where he received M.A. equivalent in Journalism and law degrees. He underwent training for journalism abroad as Dag Hammerksjold Fellow in America, Western Europe and at the UN. He also received Trainer's training at International Institute of Journalism in Berlin. In 1960s and 70s Lal Deosa Rai practised magazine journalism in India and daily newspaper journalism in Nepal, particularly as Feature Editor of *The Rising Nepal*. Rai has made pioneering contribution towards development of journalism-education in Nepal and is still very actively involved in this sphere.

One of the Contributing Editors to the *Nepal Cultural Encyclopedia*. Rai has been media Consultant for Nepal Press Institute, Centre for Women and Development and the *Connection* Development Publication House.

His research works include *Effectiveness of Nepali Mass Media* (Tribhuvan University) *Access of Girls to Education,* (UNESCO, Paris), *Farm Broadcasting in Nepal,* (Agriculture Department HMG) UNFPA

(Continued...)

HUMAN RIGHTS IN THE HINDU-BUDDHIST TRADITION

BIBLIOTECA
REGIONALA
TIMIS-BANAT
TIMISOARA

HUMAN RIGHTS IN THE HINDU - BUDDHIST TRADITION

Lal Deosa Rai

Nirala

Nirala Publications
G.P.O. Box 394
Jaipur 302 001 (India)

All Correspondence to:
2595 Kucha Challan
Darya Ganj New Delhi 110 002.

First Edition 1995

ISBN-81-85693-46-3

© All Rights Reserved

Cover Design and Illustrations : Uday Shankar

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, resold, hired out, or otherwise circulated without the publisher's prior written consent in any form of binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser and without limiting the rights under copyright reserved, no part of this publication may be reproduced, stored in or introduced into a retrieval system, or transmitted in any form or by any means (electronic, mechanical, photocopying, recording or otherwise), without prior written permission of the above mentioned publisher of this book.

Typesetting at
Micro Tech Printage
Darya Ganj, New Delhi

Printed at
Nazia Printers
Delhi

Born in 1937, Lal Deosa Rai was educated mainly in schools in India and the Calcutta University where he received M.A. equivalent in Journalism and law degrees. He underwent training for journalism abroad as Dag Hammerksjold Fellow in America, Western Europe and at the UN. He also received Trainer's training at International Institute of Journalism in Berlin. In 1960s and 70s Lal Deosa Rai practised magazine journalism in India and daily newspaper journalism in Nepal, particularly as Feature Editor of *The Rising Nepal*. Rai has made pioneering contribution towards development of journalism-education in Nepal and is still very actively involved in this sphere.

One of the Contributing Editors to the *Nepal Cultural Encyclopedia*, Rai has been media Consultant for Nepal Press Institute, Centre for Women and Development and the *Connection* Development Publication House.

His research works include *Effectiveness of Nepali Mass Media* (Tribhuvan University) *Access of Girls to Education*, (UNESCO, Paris), *Farm Broadcasting in Nepal*, (Agriculture Department HMG) UNFPA project evaluation for DRCG.

Rai has published over half a dozen books including, *The Buddha* (translation) and *The Natir Puja* (translation) by Tagore; Very recently he has authorised, *The Newspaper Journalism* (Sajha Publications).

Rai has been studying area of human rights in Hindu- Buddhist tradition for last

several years. He was associated with CENAS, Tribhuvan University in the study of human rights in Nepal; in this capacity he participated the conference on 'Human Life and Development' held in Colombo, Sri Lanka under the joint auspices of Sri Lanka Foundation and International Coordination Council, Washington DC.

Rai was awarded *His Majesty King Birendra Auspicious Coronation Award* and Asian Cultural Centre for UNESCO Award on photography.

Lal Deosa Rai is head of Department of Journalism and Mass Communication, member, Board of Faculty, Institute of Humanities and Social Science, Tribhuvan University.

Preface

Ever since the proclamation of the Universal Declaration of Human Rights by the United Nations in 1948, the nations the world over have increasingly shown great concern about human rights. At the national level, the response to the issues of human rights vary according to the kind of society, the stage of national development that relate to the system of human rights. It was in 1875 human rights at the international level was dealt with for the first time when the Congress of Vienna entertained petitions for international protection of religious freedom, civil and political rights. At present, while the nations united under the banner of the United Nations have become more sensitive to the issues related to the questions of human rights, the researchers have been confronted with a number of complex, interacting variables, such as, changing definitions of human rights and shifting priorities of rights during different periods in history. As the articulation of human rights has assumed global dimensions, so also all nations, small or big, have become increasingly aware of the importance of identifying the nature, origin and system of human rights as developed in the

politico-legal and cultural environment of a particular country.

The main assumption underlying this study is that the human rights are culture specific, and their philosophical expressions are relative. Hence, human rights are somewhat differently understood in different societies, despite the fact that they are pursued universally. It is assumed that though the human rights of any particular period are rights necessary for a particular people to exist or thrive in that particular historical period, that does not mean right of a certain period cease to exist and/or are contradicted by the new generation of rights. Certain rights do stand the test of time and they tend to be cumulative. It is further assumed that human rights can be either legal or moral, or both depending on the nature of a polity.

By this cumulative process at work, the body of human rights has grown today to such a bulk and variety at different levels of culture and civilization, that it is hard to define the term. Still, this study attempts to understand the meaning of human rights relative to the Hindu-Buddhist culture.

Broadly speaking, this is a study of the development of human rights in the Lichchavi period of Nepalese history in context of society. The main thesis is that the notion of human rights and the origin of human society are coterminus. Although the ideal of human rights may tend to be universal, the system of human rights in reality varies from society to society.

The Nepalese society is basically a dharmic society. It is deeply influenced by the Hindu and Buddhist philosophy of life.

Dharma or *Dhamma*, the connotation of which is wider than the term religion, is the core-value of the Hindu-Buddhist syncretic culture. The people who have been nurtured in the cradle of this culture cannot comprehend the implications of rights wihout taking into consideration the concept of *dharma*.

Therefore, any attempt to analyse and interpret the Hindu-Buddhist culture-specific human rights is bound to be misunderstood if it were to ignore the relationship of *dharma* to the system of human rights.

The chapter I deals with the origins of the notion of human rights, and the meaning of human rights in the context of western liberal democracy as distinguished from the Hindu-Buddhist society. Chapter II explores the meaning of *dharma* as the key concept in understanding the concept of human rights of a Hindu-Buddhist origin. Chapter III briefly gives a politico-legal background condition to the human rights development in the Hindu-Buddhist society. Chapter III provides relevant background information about the Lichchavi period and Chapter IV deals with the development of human rights in the Lichchavi period. Chapter V recapitulates the the whole thesis.

This study has made an attempt to bring home this point by a case-study of the Lichchavi period with special reference to the development of human rights system *pari passu* the Lichchavi society.

The historical evidence to prove the main contention of this thesis has been drawn from the inscriptional materials and their competent interpretation provided by Dhanavajra Vajracharya in his work, *Lichchavi Kal Ka Abhilekh*. Besides, many authoritative works

on Nepalese history by well-known Nepalese as well as non-Nepalese historians have been referred to in support of the main thesis.

I also sincerely acknowledge that all kinds of learned suggestions and expert opinions from a wide circle of intellectual elites in Nepal have been very helpful to me at different stages of writing the present book.

-Lal Deosa Rai

Contents

PREFACE

(I) INTRODUCTION 17

Origin
The Notion
The Western Perspective
The non-Western Perspective
Socialist View
Traditional non-Western Perspective
Human Rights in the Hindu-Buddhist Tradition
Preliminary Observation

(II) THE CONCEPT OF *DHARMA* 50

Definition
Dharma as a Process
Dharma as a Means
Two Approaches
Absolute and Relative *Dharma*
General and Specific *Dharma*
Dharma and Human Rights
The Balance of *Dharma*

(III) THE BACKGROUND OF DHARMIC SOCIETY 72

Ancient Nepal
The Lichchavis
The Lichchavi State
Lichchavian Administrative System
Conclusion

(IV) HUMAN RIGHTS DEVELOPMENT IN LICHCHAVIAN PERIOD 112

Problems of Freedom
Descriptive Details
King Basantadev and Ravi Gupta
Kramalilah
Bhaumagupta
Amsuvarma
New Approach
Specific Measure
Jisnu Gupta
Visnu Gupta
War of Liberation
Narendra-dev
Juridical Problem
Jayadev II
Conclusion

(V) CONCLUSION 188

In Nepal, the monarch and his subjects have been governed by dharma, a system drawn from the Hindu religion. The King cannot change this.

-His Majesty King Birendra

HUMAN RIGHTS IN THE HINDU-BUDDHIST TRADITION

LIBRARY
OF THE
UNIVERSITY
OF
CALIFORNIA

Origin and Nature of Human Rights

CHAPTER ONE

Origin

The term 'human rights' has gained currency during the last four decades[1] There is, no doubt that it is a twentieth-century phraseological invention . However, the notion of human rights was prevalent even in most ancient civilizations.

For instance, the Egyptian Precepts of Ptah-hotep dating c 3550 B.C. declared; Do justice, comfort the mourner, oppress not the widow and expel no man from possession of his father[2]. Similarly, the Code of Hammurabi-the world's most ancient code of laws (second millennium B.C.) - provided for slaves' rights and freedom, women's rights and the like[3]. These ancient precepts and the Code found expression in the last sermons of the prophet of Islam. In the Vedic age all persons including the king and his family could be tried by tribunal on a charge of violation of human rights.[4] In the Chinese Empire of the Chou and the Han Dynasties (c II22 - 255 B.C.) there were a number of schools and informaries, lands were redistributed, loans provided to the needy farmers, free of interest, all with a view

to reduce social inequalities.[5] Confucius, who lived during the reign of the Chou Dynasty, propounded the principle of an ordered society with an emphasis on an individual's duties rather than his rights.[6] In classicial Athens, the citizens enjoyed the right to freedom of equality before the law (isonomia), equal liberty to speak and meet in public (isogoria), and equal respect (isotimia)[7] The Romans had adopted the stoic notions of equality for all persons and had declared that according to the law of nature, all men are equal, and by the same law all are born free.[8] Traditional African culture had sustained the notion that "certain rights should be upheld against alleged necessities of state." and the African societies had stressed the rights of groups within their social, economic and cultural dimensions. Institutions were available to support individual dignity and welfare[9].

Indeed, the origins of notion of human rights cannot be arrogated to a particular people and culture.

The Nature

Although the origins of the notion of human rights can be traced to the very dawn of human civilization, and much has been propounded and written about human rights through the centuries, yet one would still be hard put to define the term. But again, as Abdul Aziz Said has aptly remarked, "Human rights may be difficult to define but impossible to ignore."[10] The issue of human rights increasingly influences the thought and expectations of the people all over the world. It affects ever broader areas of domestic as well as international policies. In fact, there is almost no part of the world which is not penetrated by the awareness of human rights. But still it is not easy to agree about the philosophical expression of human rights. It is admitted in scholarly writings that the term "human rights" itself is confusing

as it has acquired an emotional appeal surpassing any fixed meaning which analytical philosophers and scholars of international and domestic law have tried to assign to it.

"Human Rights are not rights which derive from a particular station; they are rights which belong to a man simply because he is a man." But the notion of being human differs from one culture to another, from one ideology to another and from one existential conditon to another. Thus, there are some definitions which stress on the Western values of life and yet there are others which consider Eastern Oriental concept of rights as fundamental to man and society. There are again definitions which emphasize the moral aspect of human rights, while other definitions consider the concept of human rights as the one which embraces the universe of civil rights, civil liberties and the newly emerging socio-economic rights. And still further, some definitions conceive of 'third generation rights' such as the right to development', 'the right to healthy and economically balanced enivornment' which are related to the scientific and technological progress of modern age as important ingredients of the definition of human rights"[11]. Again, conceptual definition has its corollary in the area of operational definitions. Numerous social science scholars and researchers have adopted a variety of operational human rights definitions and differing indices or scales to define the abstract concepts of human rights.[11A]

While, on the one hand, the nation-states have endeavoured to arrive at the meaning of human rights with universal applicability through the agency of international body like the United Nations, on the other hand, some of the best minds in the field of human rights study feel that the nature of human rights ought

to be determined in the crucible of a specific culture, ideological belief and developmental need of societies of the world.[12]

Although the universal articulation of human rights has begun unmistakably in the pursuit of peace and happiness on earth, a strong belief still persists that the diverse cultures and traditions, ideological underpinnings and the world divisions, the developmental goals and existential conditions contain significant values which influence the meaning of a phrase like 'human rights' in the context of a particular society, and that the western-originated human rights doctrines such as the Universal Declaration may not be relevant to Third World or socialist societies. The Charter of The United Nations, and the Universal Declaration of Human Rights that followed were truly revolutionary in that they thrust the issue of human rights which was till then a matter of relationship between States and individuals to a position of importance in internation relations and international law. (see, John P. Humprehy, *Human Rights and World Law* 2 (1973), Abidjan World Law Conference). The Universal Declaration of Human Rights was adopted in 1948, and after 18 years the International Covenant on Economic,Social, Cultural Rights, The International Coveant on Civil and Political Rights, and the Optional Protocol on Civil and Political Rights, were adopted, thereby completing the International Bill of Rights, which acquired a legally binding character in 1976. While the Charter expressed the firm conviction of peoples of the UN in fundamental human rights and freedom, the Universal Declaration comprehensively codified Internationally recognized human rights including the traditional civil and poltiocal rights as well as the economic, social and cultural rights. The Declaration was proclaimed to serve "as a common standard of achieve-

ment for all people and nations," and has been used as such since its adoption. The Internatinal Conference on Human Rights in 1968 proclaimed the Declaration as "a common understanding of the peoples of the world concerning the inalienable and inviolable right of all members of the human family and constitutes an obligation for the members of the international community." (see. U.N. Doc. ST/HR/2 7 (1974).) The lofty provisions of the Declaration have been elaborated upon and given legal effect through the adoption of the International Convenant on Social, Economic and Cultural Rights and Covenant on Civil and Political Rights. Both the convenants, as does the Universal Declaration, prohibit any discrimination in the enjoyment of the rights they contain.

However, the scholar in the field of human rights are beginning to contend the view that the Universal Declaration serves as the universally valid standard of human rights, morality to which one country could appeal in making judgements about another country or countries with altogether a different culture and tradition. They are of the view that a true understanding of the moral convegence of the human race on the question of fundamental human rights is essential if the Declaration, based as it is now on the principles of positivization of the classical from of natural law justified by a framework brought about by the socio-politico-economic changes of western societies, is to be made free from its ideological underpinnings and made relevant to the world cultures by way of its realization not only philosophically but in concrete daily practices. Analysis of the objections made by the then Soviet Union and Saudi Arabia to the content of the Declaration underscore the differences in world views that the Declaration glosses over and also illustrate the essence of the

Declaration's ideological character. The Saudi way of achieving human rights with a faith in God and the Soviet way of doing so through the classless society appear, at least at the theoretical level, as equally valid ways as those proposed by western doctrines. "Unfortunately not only do human rights as set forth in the Universal Declaration reveal a strong western bias, but there has been a tendency to view human rights ahistorically and in isolation from their social, political, and economic milieu.'[13] Paul Harrison, while observing that the poor people of poor nations lack what might be considered the most basic human rights: the right to employment, to adequate shelter, to freedom from hunger and disease, said, "The United Nations' International Declaration of Human Rights is an impressive list of ideals", and points out that "there are probably only two countries in the Third World- Costa Rica and Barbados - which do not violate at least one" of the freedoms or liberties listed in articles 6, 10, 12, 20, 21 and 22 of the Declaration. He opines that freedom stands little chance in a world of pronounced inequalities such as of the Third World, and it is useless to press for political and civil rights without pressing for the kind of equality that makes them meaningful." William B. Devall observed: The 1948 United Nations declaration is not universally accepted by member nations as a program of rights, and even those rights upon which there is wide constitutional consensus are not universally implemented."

The Socialist World and the Third World have their own view of human rights. It is claimed that the more modern view of human rights which embrace the universe of political and socio-economic rights was first officially proclaimed in the 1918, "Declaration of the Rights of the Toiling and Exploited Peoples" adopted by the All

Russian Congress of Soviets and that it inspired the Universal Declaration and that the national constitutions of the world are also copying this model gradually. It is also claimed that even then United States recognized the socio-economic aspects of human rights on a national scale in President Franklin D, Roosevelt's New Deal and this new capitalist understanding was restated in the official definition of human rights presented by Secretary of State Cyrus Vance in his April 30, 1977 address to the University of Georgia Law School. A strong assumption is working, that even if the human rights listed in the international declaration and conventions are inherent in the very existence of man, the specific interpretation of these rights derives not from natural law[14] but from the social organization rights of human beings.[15] Human rights are seen not as absolute and universal values, but as relative to and dependent upon the nature of the society that formulate and enforce them.[16] Indeed, it is becoming increasingly evident that the Charter and the Universal Declaration based as they are on democratic and liberatarian values of Western origin, can provide only one particular meaning of human rights and that this meaning may not be applicable wholesale in the context of non-western world. Among the third world countries most of which are developing, there are some which give priority to socio-economic rights over individual civil and political rights, and there are others which are still guided by traditional values, but tend to subscribe to western liberal democratic concept of human rights.

The fact is that there is no universal consensus of opinions on the meaning of human rights. Broadly speaking, there are two view points, the Western viewpoint based on the experiences of liberal democracies like England, France and the United States, which

have Judeo-Christian traditional background; and the Non-western viewpoint based on the experiences of Euro-Asian and Afro-Asian countries with diverse cultural patterns, ideological frameworks, and developmental goals.

For the purpose of this study, the nature of human rights is seen in this light.

The Western Perspective

The roots of twentieth-century western concept of human rights are traced to the humanist traditions of the Renaissance. The epoch-making transformation of medieval western Europe was accompanied by the founding of a new concept of inalienable rights of the individual independent of the state. The writings of political thinkers like Grotius, Locke, Hobbes, Rousseau, Montesquieu had advanced the theory that atomized individuals possessed certain inalienable rights in nature, but, they ceded some of their rights to government in order to establish civil society and to ensure their inherent rights. This theory took firm root in the political thinking of modern Europe with the passing of the English Bill of Rights in 1627. The French Declaration of the Rights of Man, 1789 and the American Bill of Rights, 1791 represented the finest expression of this theory of natural rights. The individuals had won new claims against the state. Thus the legitimate western democratic government in theory at last became a limited government. For the state to act against any individual such action had to be in accordance with the consent of the governed (popular sovereignty) and in the manner provided by the due process of law. The notion of natural rights which fundamentally influences the western conception of human rights hedged the individual against the state inteference. Thus the western view of human

rights derived from individualism and for the efficacy and promotion of such rights the liberal democratic government relies on legal judicial machanism. The concept of natural rights, which was institutionalized in the context of the nation-state in the West, was further institutionalized by mid-twentieth century at regional level, such as the Council of Europe, and at international level, the United Nations. Hence, the Universal Declaration[17], the European Convention[18] which were adopted at a time when most Third World countries were still under colonial rule, are rooted in the legal and political thought of the 17th to 20th centuries liberal democracies of Europe and the United States. This is a historical reality.

The western concept of human rights has another aspect. While the conservative viewpoint is founded on the belief that natural law itself should guarantee his rights to the individual as expressed in charters and ordinances, constitutions and statutes, usages and customs,[19] the advocates of liberal concept argue that "human rights are based on elementary human needs as imperatives"[20] of humanity. This view believes in the emergence of a world moral community based on a minimum of human needs which is not subject to change, owing to variations in cultural patterns, and laws and ethics of a particular state.

The Non-Western Perspective

The Afro-Asian and Euro-Asian traditional societies have a different notion of human rights[21]. In contrast to the western democratic concept, the non-western notion of human rights conceives of the individual as an integral part of a collective whole, such as, the kinship system, the tribe, the local community, the *panchali* (of ancient Nepal). It may, however, be noted here that

in the western world too the idea of the collective whole was prevalent before the advent of individualism. The modern western concept of human rights is alien to the non-western world. Besides, the cultural patterns, the developmental needs and goals including the ideological framework within which they are formulated also account for the limited viability and applicability of the western construct of human rights. Thus, while in the western democratic states, political and civil rights are stressed more and implemented to a greater or lesser extent, in the non-western traditional societies these rights are perceived as essentially communal or group-oriented rather than individualistic. Individual rights are of secondary importance in non-western societies.

"But another factor emerging in the second half of the decade (1980s) was", as Rosemary Righter observed, "the growing support for a view which placed economic and collective rights above individual freedoms." The demand for the creation of a New International Economic Order which was spawned by myriads of Third World frustrations and disillusionment with 'Western' economic models and the concept of interdependence all the more heightened the irrelevance of western concept of human rights. The Third World directly confronted western assumptions about human rights at the United Nations by passing the resolutions 32/130 on 'Alternative approaches... for improving the effective enjoyment of human rights', by overwhelming majority, which placed collective rights - including national sovereignty over natural resources - ahead of the civil and political rights. This linkage of human rights to the new economic order redefined the concept of human rights as understood in terms of the Universal Declaration.

Rosemary Righter refers to 'an evolving international situation, in which the growth of what might be called

the political consciousness of the Third World - for all the immense diversity of the countries which belong to it - has a common factor, a rejection of the ideals of individual opportunity and freedom of choice.' She adds that the rejection comes from governments, most of them authoritarian, and that there is enough force behind the argument that western values perpetuate, in practice, a destructively inegalitarian world system to demand serious scrutiny. She however points out that 'the attack' on 'Western' values is paradoxical in as much as it is launched in the name of essentially 'Western' ideas - about the rights of states to sovereignty, about self-determination, and about the importance of national identity - which were all 'developed in the context of a belief in the primary importance of individual human rights,'

The Consitution of Japan, for instance, is based on the idea of respect for the individual, but this does not imply nor does it manifest itself in terms of individualism as understood in the United States. While traditionally the Japanese have stressed the 'social nexus' and identification with the group rather than individualism, the modern Japan too quiet in keeping with the traditional view regard opposition to the public (collective) good or to group consensus through overassertion of individuality as 'unprincipled and reprehensible' egotism.[22]

While the non-western societies seem to put greater emphasis on and achieve better results in respect of socio-economic rights, the western capitalist states do not perceive these rights as a matter of state responsibility, even though they may be regarded as ideal goals. "The irrelevance of the Western conception of human rights founded on natural rights doctrines is not rooted solely in traditional cultural patterns, but is also

a consequence of the articulated modernization goals of Third World countries."[23]

The Socialist View

In the context of current developments in the socialist world the validity and relevance of the specialist view may be questioned in realistic terms . However, socialism as a concept and the notion of human rights related to the concept is still a matter of academic interest. It is based on the idea that the political, the economic and the social are deeply interrelated and interdependent, and that the human rights doctrines and rights doctrines and prevailing socio-economic structures cannot be conceived in isolation. The non-western view point embraces the universe of traditional notion of human rights. This non-western notion still continues to guide many ancient Afro-Asian societies, particularly those which tend to be liberal democracy. Since there are countries in the western hemisphere which are guided by the principles of democratic socialism in contrast to the countries in the Afro-Asian continent which are guided by the doctrines of liberal democracy, it is only in broad sense the two conceptions of human rights tally with the physical and socio-economic divisions of the world.

In fact, it can be said that socialism began in Europe in the 19th century as a human rights movement more than as an economic struggle. The socialist perspective arose as a militant critique of the 19th-century bourgeois revolutions. It proclaimed, as against the universal rights of man, minimal liberties for the working class, universal suffrage and trade union rights. It sought the establishment of the first system of truly democratic ownership as against the authoritarian property. In such a system of democratic socialism, human rights are not

only the prerogatives of the individual but are the essential mechanism of the social and economic power of the people as a whole. Without them, socially owned property becomes the private possession of the bureaucracy which runs it and thereby human rights are critically curtailed. In the contemporary world the democratic socialist countries continue to apply the central insight which formed the basis of a socialist view of human rights. This view is applicable also to the communist societies, which claim to be democratic socialist with a system of a collective ownership as against the system of private proprietorship. But since the communist system is run under the direction of a bureaucratic elite, the people are denied the freedom of right to change the policies and personnel of the state. Under communism as also under democratic socialism, the struggle for human rights therefore essentially means the struggle for socialism or the way to socialism. In a socialist perspective, the human rights are both individual and social because socialism cannot be achieved without establishing interrelationship of the political, economic and social as a one whole. In socialism, human rights form the basis of social and economic rights, as also the mean and goal of the state.[24]. However, the socialist conception of human rights cannot be and should not be identified as the only non-western viewpoint.

There is also a traditional non-western perspective in human rights development.

Traditional Non-Western Perspective

The traditional non-western view of human rights is set on the crucible of numerous philosophic underpinnings and cultural pattern of the developing countries, combined with their ideologies of modernizaion and goals of development which are interpreted pri-

marily in terms of economic development, the traditional view of human rights has assumed in recent times a new dimension of conceptualization. This view can be analysed in three planes : cultural, ideological and developmental. Traditional cultures of the developing countries was based on the idea of collectivity or, as in the case of Asian countries, on the doctrine of *dharma* which implied collective good. The society was conceived as constituted by a group under a system of kinship, or the clan, or the tribe or the local community or the *panchalis, gosthi, sangha* as in the case of Nepal, rather than by the individual with inalienable rights. The group or the state was paramount and the individual was conceived of as its intrinsic constituent with a defined role and status - never above and prior to the collective whole or society. The prevalance of the notion of the group or collective rights rather than inalienable individual rights is evident in many Afro-Asian history and cultures.[25] The *kipat* system of the Kiratis, the *panchali* system of the Lichchavis, communal ownership of holdings among the Gojami-Amhara of Ethiopia, the kinship group among the hunting and gathering societies, the clan in China, the "uchi" in the Japanese social order, and similar other like systems have been more 'natural'. This conception of collective ownership, which predates by several centuries any Marxist or socialist doctrines, persisted through the era of colonial rule in many Third World countries for a number of reasons. With the achievement of independence, the new nation-states emerged replacing in the process the traditional group indentities by the state having the traditional role and status of a traditional 'group'. As consequence, a new ideology of statism grew, founded on the belief that whatever rights an individual possesses are given to him by the state and that this state possesses the right and the ability to curtail

individual rights and freedoms for the greatest good of the group.[26]. The constitutional governments have come to be identified with a particular set of political institutions but not with the doctrines of natural rights which constitute the key to the understanding of western view of human rights development.

However, the colonial experience of economic exploitation gave an unshakable credence to the notion of human rights as consisting of economic rights rather than civil or political rights. Thus the irrelevance of the western concept of human rights in the context of Third World can also be seen as a consequence of the adoption of ideology of modernization and development which is based on economic and socio-cultural considerations rather than a political considerations. The traditional values and concepts were frequently reinterpreted and redefined in the light of contemporary realities and goals, and then incorporated in the goals of modernization and development. While economic development became a paramount state responsibility, democratic political institutions were of secondary importance. "The conjunction of a traditional culture" to quote Adamanta Pollis and Peter Schwab, "that defined the individual in terms of group membership, the need to transpose this group identity to the nation state level, a definition of modernization in terms of economic development, and the evolution of the notion of a one party state (or the partyless state) as the embodiment of the people, facilitated the adoption of decrees limiting freedom of speech, the adoption of preventive detention laws, the outlawing of rival political parties, the placing of the judiciary under a party control, and the incorporation of all volutary associations under the rubric of the one party (or/of the ruling monarch).[27] In the conceptual framework that has structured the world

view of many Third World countries and within which the traditional concept of human rights is understood, "democratic government is perceived as an institutional framework through which the goals of the state are to be achieved, and if it fails or becomes an impediment, it can be dispensed with impunity. Individual political rights, so revered in the west, at most take second place to the necessity of establishing the legitimacy of the new group - the state - and to the priority of economic rights that necessitate economic modernization.[28] The cultural heritage, the emergence of the state as the substitute for the traditional communal group and as the embodiment of the people, outside the purview of which no individual rights or freedom could be conceived of, and the social goals and priorities set by the leadership in terms of economic development, determined the concept of human rights as understood in the traditional non-western societies. And, it is within this context that the doctrines and policies of African or Asian nations, such as, Nepal, can be understood.

Human Rights in the Hindu-Buddhist Tradition

Broadly speaking, the Hindu-Buddhist world is coterminous with the Asian continent since ancient times[29]. As such the Asian culture and tradition may be said to have, by and large, the roots of Hindu-Buddhist origin. And since the Asian countries except a few such as Japan are in various developing stage, the roots of Hindu-Buddhist origin. And since the Asian countries except a few such as Japan are in various developing stages of modernization their modern view of human rights are conditioned by the needs and goals of development formulated within an indigenous variant of political ideology as much as by the cultural imperatives of ancient origin. In fact, most powerful of them

are guided by socialist doctrine and their view of human rights can be typified as non-western socialist view.

However, there are some Asian countries which have chosen the road of non-socialist traditional variety to achieve the goals of development and human rights.

Since the book presents an idea of the development of human rights in ancient Nepal, an understanding of human rights in Hindu-Buddhist perspective is essential. In case of Nepal the relevance of this context is accentuated by the fact that Nepal has a syncretic cultural pattern which sets it off a country of distinct value wrought by the intricate intermixing and blending in beliefs as well as in practices of Hinduism, Buddhism and Shamanism. The Hindu-Buddhist culture is treated as one entity for the purpose of this study on the assumption that Hinduism and Buddhism are essentially one religion. It is of importance to note here that in the Nepalese context two factors have been mainly responsible for the fusion of Hindu and Buddhist cultures:

I. From the very beginning of Nepalese history the ruling families were eclectic and liberal in their attitudes to belief amd practice of religious import.

II. The successive waves of immigration and inflow and interaction of ideas for the last two thousand years have resulted in refinement of indigenous culture.[30] The concept of human rights is dynamic, and its meaning as well as its numbers have changed and increased through the ages. That holds good for the Asian countries too. In the modern Nepalese context, the meaning of human rights has acquired a western bias. Nepal has not only fully subscribed to the United Nations Charter, the Universal Declaration, the two UN conventions relating human rights and a host of more specialized conventions and ancillary expressions but has also

incorporated in a limited way in its national constitutions freedom to rights of both the political-civil category and of socio-economic nature.[31]

The Hindu-Buddhist conception of human rights fits into the non-western crucible delineated in the previous section.[32] Some of the Hindu-Buddhist values and doctrines which bring out the distinct features of the traditional Hindu-Buddhist notion of human rights, are discussed in the following chapters.

In the traditional Hindu-Buddhist context the idea of human rights cannot be understood in all clarity without a reference to the concept of *dharma*. The chapter that follows will, therefore, attempt to look into the nature and significance of *dharma* in relation to the notion of human rights.

Preliminary Observation

Since the Hindu-Buddhist conception of human rights is rooted in the Vedic traditions[33] it can be assumed that among the non-western traditional human notions, the Hindu-Buddhist idea is one of the ancient ones, if not the most ancient. This notion was nurtured in the cradle of an operative politico-legal system secured firmly by dharmic principles. The existence of a secure politico-legal system is a *sine qua non* for human rights achievement, for it is inconceivable that rights and freedom would be possible in a 'state of nature' in which force majeure whimsically and suddenly would set up a formula for might and right situation. In order, therefore, to present an idea of the development of human rights system in the Hindu-Buddhist setting, a cursory survey also of the politico-legal system is also made in the following chapter. This sets off the distinctive institutional features of traditional Hindu - Buddhist

conception of human rights.

Though the concept of human rights rests on the bedrock of human civilizations and culture, its manifestations, however, are seen through a particular viewpoint built on the subjectivities and practices of a people or a group of people. The core value of human rights is humanity, but its expressions vary in accordance with the value premises and institutional patterns of a particular country. While its appeal has the quality of universality, and tends to transcend all nation-states and cultures, its philosophical lineage differs, giving rise to multiplicity of its definitions. The idea underlying this concept is one of freedom of mankind but the differing cultural patterns, ideological frameworks and developmental goals, tend to put around this concept of manifold connotations. The diversity of cultures and civilizations, beliefs and traditions, history and aspirations reflects in the politico-legal system give rise to ever-changing meaning to such terms as "human rights" and "fundamental freedoms". It is in this context, the notion ideas, and institution of the human rights has been studied in this work in order to grasp its meaning in relation to the Hindu-Buddhist culture. The scholaristic studies of recent years have increasingly stressed on the necessity of research and evaluation of of the conception of human rights, so that eventually a human rights doctrine that is more valid and universal than as now may be formulated.

"There would appear," to quote McDougal, Lasswell and Chen, "to be an overriding insistence, transcending all cultures and climes, upon the greater production and wider distribution of all basic values, accompanied

by increasing recognition that a world public order of human dignity can tolerate wide differences in the specific practices by which values are shaped and shared, so long as all demands and practices are effectively appraised and accommodated in terms of common interest."[34]

Notes

I. The expression 'human rights' was used for the first time in the Declaration by the United Nations signed on January I, 1942 by 26 nations then at war: "complete victory over the enemies is human rights and justice . . ." Subsequently, in the Preamble of the Charter the people of the United Nations reaffirmed their "faith in fundamental human rights." see the Preamble, the United Nations Declaration, 1 January, 1942; the Preamble and articles 1, 13, 55, 62, &76 of the charter of the United Nations, 1945. See also, A Robertson, *Human Rights in Perspective: An Historical Introduction*. Strasbourg, 1965" . . .the world had to await the barbaric pre-war practices and the shock of World War II before humankind was propelled to the blast off area of human rights."

2. The precepts of Ptah-hotep (c.3550 B. C.) as quoted in S.R. Sharma, *Our Human Heritage;* Bombay; Bhartiya Vidya Bhavan, 1964. p p 117. The Precepts recorded on papyrus, 23ft. 7in. long and 5ft. 7/8 in. broad is now in Paris.

3. "The Code of Hummurabi," *Encyclopaedia Britannica*. See also, *An Outline History of China*, ed. Bai Shongi, Foreign Language Press, Beijing, 1982, pp 84-85; 109-112. *Age*. London; Allen & Unwin, 1951, p. 434.

4. V. M. Apte *Political and Legal Institutions* in *The Vedic Age* London; Allen & Unwin, 1951, p. 434.

5. S.R. Sharma, ibid, pp38 - 39.

6. Chang-sho Lo, "Human Rights in the

Chinese Tradition, "in UNESCO, *Human Rights, Comments and Interpretations*, Westport Conn. : Greenwood Press, 1949, pp. 186 - 190. See also *Yearbook on Human Rights for 1946*, United Nations, 1947, pp 61-67.

7. Richard P. Claude. (Ed. *Comparative Human Rights*, Baltimore & London, The John Hopkins University Press, 1976, p.3

8. ibid

9. The precolonial African notion of human rights has been discussed by various Western and African scholars in the field of human rights. For instance, Ottoban Ougoano of Ajumaku (now Ghana), while writing in 1787 about slavery observed" . . .though the common people are free, they often suffer by the villainy of their different chieftains, and by wars and feuds which happen among them . . . Nevertheless their freedom and rights are as dear to them as those privileges are to other people." ('Thoughts and Sentiments on the Evils of Slavery' as quoted in *Human Rights: Cultural and Ideological Perspectives.* ed. A Pollis & P. Schwab. New York;Praeger Publishers, 1979, p.117). Julius K. Nyerere observed that there were inequalities in traditional Africa, but "they were tempered by comparable family or social responsibilities, and they could never become gross and offensive to the social equality which was on the basis of the communal life." (*Essays on Socialism*, New York: Oxford University Press, 1968, p. 108).

10. Abdul Aziz said, *Human Rights and World Order*, New York: Praeger Publishers 1978, p. xi.

11. Myres S. McDougal, Harold D. Lasswell, and Lung-chu Chen point out: 'It is in the substantive definition of human rights that the greatest confusion and inadequacy prevail. Little effort has been made to create a comprehensive map of the totality of human rights, and there has been little

discussion of the detailed content of particular rights. Often even the every conception of human rights left obscure.' McDougal, Lasswell, and Chen op. cit., pp. 64-65. The authors have succinctly put forth the nature of 'confusion and inadequacy' in their work referred to above, McDougal et. al., ibid., pp. 64-83.

11a. See Denis V. Cowen, 'Natural Law & Natural Justice' in *Foundations of Peace and Freedom*, ed. Ted Dunn, Swansea: Christopher Davis, 1975, p.41.; H.L.A. Hart, "Are There Any Natural Rights?" in *Human Rights*, ed. A. I. Melden, Belmont, California; Wadsworth, 1970, pp. 61-75; William B. Devall, 'Social Science Research on Support of Human Rights', in Richard P. Claude. ed., op. cit., pp 329-30; Admantia Pollis & Peter Schwab; op. cit., xiii and xiv. Sir Humphrey Waldock, 'Human Rights in Contemporary International Law and the Significance of the European Convention' in *International and Comparative Law Quarterly*, Supplement No. II, 1965, p. 3.; Internal Communication Agency, USA, 'Freedom Means' pp. 13, - 18, 21 - 24, 26 - 27, 75 - 76, 80 - 83, *The Rights and Freedoms of Soviet Citizens*, Novosto Press Agency Publishing House, 1977, pp 3 - 4, 92 - 95; V. Kartashkin, 'Human Rights and the Modern World', in *International Affairs*, I, 1979, pp. 48 - 50, 54-55.)

12. Office of Public Information, The United Nations and Human Rights, New York: United Nations, 1978; pp. 1 - 2; ibid, Universal Declaration of Human Rights, (final authorized text); Human Rights: Principles and Realism, in *Freedom Means*, International Communication Agency, USA, PP. 80 - 87; V. Kartashkin, op. cit., pp. 48 - 56; Marnia Lazreg, Human Rights, State and Ideology; An Historical Perspective, in *Human Rights: Cultural and Ideological Peespectives*, op. cit., 32 - 34; William B. Devall, op. cit., p. 329; Abdul Aziz Said, op. cit., p. 2. ibid, 'Human Rights in Islamic Perspectives',

in *Human Rights: Cultural and Ideological Perspectives,* op. cit. p. 86; Adamantia Pollis & Peter Schwab, op. cit. p. I, 14 -17. see, John P. Humprehy, Human Rights and World Law 2 (1973), Abidjan World Law Conference. see, Peter L. Berger, 'Are Human Rights Universal? in *Span,* International Communication Agency, American Centre, New Delhi, July 1978, pp. 32-33, Richard P. Claude, op. cit., p. x; Marnia Lazreg, op. cit.., pp. 32-34, 40-41.

13. Adamantia Pollis and Peter Schwab (op. cit., pp. 17).

14. See *Inside the Third World,* Penguin Books, 1979, pp 396-397 and William B. Devall (op. cit. p 327) See also UN Document ST/TAO/HR/36, New York, 1970. See *Freedom Means* op. cit., pp 75-76.

15. Arnold Brecht, while tracing the history of Natural Law and Natural Rights ideas observed: "The idea that there is an immutable, universal, absolute law of Nature that directs the proper relations between men had clearly developed by the fifth century B. C. and, although often declared to be dead, it never died completely; some time earlier or later after each apparent demise it was always resuscitated, although in ever new forms. Within the twenty-five hundred years from its first inception to the end of the nineteenth century, we can count at least three eclipses and three revivals . . . Finally, around 1900, scientific method in association with the Logical-Gulf Doctrine (separation of is and ought) and, as their common offspring, scientific value relativism began to make its impact felt. The result was a fourth eclipse of Natural Law, more fundamental than any of the former. This time the eclipse and all the appearances of being final, with no hope left for another revival." (see, *Political Theory,* Bombay; The Times of India Press, 1970, pp. 138 - It was no longer regarded as scientific to argue that men ought to

exist and not to be killed "because they did exist", that their right to defend themselves ought to be recognized" because they did have an impulse to do so"; that they ought to be treated as equal" because they were born equal"; that they ought to fulfill some useful function in society "because they did depend on society." These and similar inferences from Is to Ought lacked logical validity. Other reasons, then, had to be found in order to establish the justice of the propositions in question . . . God's voice and the human "soul" as the source of the sense of justice cannot be varified with the means of Scientific Method . . . Far more accessible to scientific examination is the suggestion that in deciding on what is just and unjust we respond to the nature of things. It is under this more subtle title that natural-law ideas have staged a comeback recently . . . the nature of things offers no more of an absolute standard of justice than did the old law of Nature-. . . It is not the nature of things as such, but the human mind and human emotions reacting to the nature of things - functioning as an instrument of observation and reasoning, of predicting consequences, of shaping expectations, and of devising means to promote or counteract their realization, or engaging in metaphyscal. speculations - which we must examine if we want to learn more about justice in scientific terms.

See also Radhika Coomarswamy, 'A Voice from the Third World', in *The UNESCO Courier*, October 1978, p. 2I. This article is based on the writer's report prepared for the Sri Lanka Foundation, Colombo. Non-availibility of the report precluded direct quotes from the full report.

16. Dennis V. Cowen observes : "No doubt, not one of the human rights which it may be possible to enumerate reasons - is absolute. Each, for example, has to be balanced against, and reconciled with, the exigencies of government." (see, 'Natural Law

and Natural Justice' in *Foundations of Peace and Freedom,* ed. Ted Dunn, Swansea: 1975, p. 4I).

17. In the Universal Declaration, the human rights corpus has been approached dictotomously, both in setting the common standard of achievement, and in establishing the implementation procedures. It deals with the western traditional civil and political rights which include the rights of man in the Lockean sequence (the right to life, right to liberty etc), on the one hand, and economic, social and cultural rights, on the other which are described as newly emerging second generation human rights. In establishing the implementing procedures also, initially two views are held: along this dichotomy: I) because of the inter dependence of all human rights, there was no justification for creation of two implementing systems to ensure respect for two categories of rights;2) unlike economic, social and cultural rights, civil and political rights could be precisely defined and quickly put into effect through appropriate legislation and other governmental action.

18. The European Convention rely to a great extent on the Universal Declaration despite the fact it draws from the rich and varied European experience with democracy and the rule of law.

Referring to the articles 2 - 14 of the European Convention, Ralph Baddard, (*Human Rights and Europe,* London, Sweet & Masewell, 1980, p.2) observes - "The rights and freedoms take as their starting point the Universal Declaration of Human Rights of the United Nations although drafting processes have provided some provision defined in ways which render them wider or more restricted then the parent instrument." The convention, however, is "deeply embedded in the concepts of European integration. It is " a reaction to the Second World War and should perhaps be viewed as political as much as a legal instrument"

19. See Russell Kirk, 'A Conservative View', in *Freedom Means*, ibid. p. 15.

20. Max Lerner, 'A Liberal View' ibid, p. 26.

21. Walter Robert Corti (see Toni Hagen, *Nepal*, Berne: Kummerly & Fey, 1961, p.) observed: "The peoples of Asia neither understand nor desire freedom in our sense of the word as we understand it, "Truth, humanity and liberty belong inseparably together. We ourselves must constantly bear this interdependence in mind."

Even to some of the states that are considered part of the Western World, such as, Spain, Portugal and Greece, the western doctrine of human rights is not applicable as the cultural heritage of these states including the western conception of inalienable human rights no more than do the African states. These states are guided by the political philosophy which assumes that the state is pre-eminent and has existence other than and prior to the individuals that compose it. Rights are understood in terms of their political and legal value but not as attributes of individuals qua individuals. It is this philosophhy which gives legitimacy to the dictatorial rule in some of these western states. (Adamantia Pollis and Peter Schwab, op. cit. p. 13)

22. See Hajime Nakmura, *Ways of Thinking of Eastern Peoples*, Homolulu; East-West Center Press, 1964, 1964. p. 407. as quoted in Lawrence W. Beer, 'Freedom of Expression in Japan with Comparative Reference to the United States' in *Comparative Human Rights*, Ed. Richard P. Claude, op. cit., p. 101. Rosemary Righter, *Whose News?* London: Burnett Books, 1978. pp 244-245.

23. Adamantia Pollis & Peter Schwab, op. cit. p. 9

24. McDougal, Lasswell, Chen, op. cit. pp. 76-79; see also Michael Harrington, op. cit. p. 24.

25. Jawaharlal Nehru (*The Discovery of India*,

London: Meridian Book, 1951. p. 70) While referring to Indo-Aryan culture observed: If man did his duty and was ethnically right in his action, the right consequences would inevitably follow. Rights as such were not emphasized. That, to some extent, was the outlook every where. It stands out in marked contrast, with the modern assertion of rights, rights of individuals, of groups, of nations." Prof. N. Hozumi ("Lecture on the Japanese Civil Code", St. Louis Exposition, 1940) pointed out that there was no word for a 'right' in the Japanese language until the mid-nineteenth century. For a discussion of Japanese rights consciousness see Lawrence W. Beer, *Freedom of Expression* in Japan with Comparative reference to the United States, in *Comparative Human Rights*, op. cit. pp. 101. 10 - 109 passim. Discussing the characteristics of the Hindu social system, L.S.S.O. Malley *Modern India and the West: A Study of the Interaction of their Civilizations*, Oxford University Press, 1968 pp. 254-355) observed : "The chief social institutions, as they existed in their integrity, were not individualist but collectivist. The unit was not the individual but the family, which regulated the relations of its members *inter se*. The inter-relations of different families were governed by the village community and the caste . . . All three, the family, the caste and the village community maintained ideological control over the individual, who was bound to conform to their standards. The individual scarcely existed except as a member of a group. Self-determination was only possible within the limits which the latter imposed . . . The village community was only practically a social institution. It was more an economic and administrative organization, over which the state had a right of control, though this was sparingly exercised. The affairs of the caste and the family, however, were matters with which the state has no direct concern. The relations of

their members were governed not by secular law but by Hindu Law and customary regulations." For a sociological discussion of the growth of individualism in modern society see Anthony Giddens, ed., *Emile Dukheim, Selected Writings*, Cambridge University Press, 1962. pp. 6-27.

Radhakrishnan (*The Hindu View of Life*, London: Uniwin Books, 1963, pp. 32, 82) observed: God's gracious purpose includes the whole of the human race. Every community has certain rights which other should respect . . . We are not so certain today as we were a century ago that the individualistic conception of society is the last word in social theory. The moral advantages of the spiritual view of society as an organic whole are receiving greater attention. Radha Kumud Mookerji (*Glimpses of Ancient India*, Bombay; Bharatiya Vidya Bhavan, 1970. p. 119) observed: "In fact, a student of Indian culture investigating its principles, contents, and characteristics, will find that a good deal of what now passes as socialism or communism is held in some of the traditions and institutions in which that culture expresses itself." To substantiate his contention, Mookerji has cited a number of Vedic texts, such as *Rigveda VIII*. 79,2 in which God is described as the God of social service. He also pointed out that the earliest conception of Religion as Positivism or Social Service is expressed in the Rigveda hymn (x. 117) which is addressed to the Deity designated as Dana or Liberality or Charity.

26. For instance, new African leaders such as Nkrumah, Toure, and Nyerere rejected democratic political institutions as undesirable for the greatest good which was conceived in terms of socio-economic development. They saw little choice but to make the state - sometimes but not always equated with the party - the instrument of change, and economic development the primary goal. This necessitated limiting political liberties that could

destroy the state in its initial stages. Development success was seen as dependent on preventing opposition by those who propagated alternative political and economic models. Viewed in this light the concept of human right was directly related to the attainment of self-sufficiency which in turn was a function of the state. This African school of thought which advocated economic statism influenced great many African leaders by the 1970s. Curtailment of individual rights were not viewed as anti-democratic but as requisites whereby ethnically diverse, extremely poor states could create the unified political framework for the greatest good for the greatest number in terms of economic attainment.

27. Pollis & Schwab, op. cit. p. 10, The Phrases in parenthesis are this researcher's own.

28. Ibid.

29. Radhakrishnan (*Indian Religions*, New Delhi: Vision Book, 1979, pp. 163 - 170 observed: "The Buddha did not feel that he was announcing a new religion. He was born, grew up, and died a Hindu. He was restating with a new emphasis on the ancient ideals of the Indo-Aryan civilization . . . Buddhism did not start as a new and independent religion. It was an offshoot of the more ancient faith of the Hindus, perhaps a schism or a heresy. While the Buddha agreed with the faith he inherited on the fundamentals of metaphysics and ethics, he protested against certain practices which were in vogue at the time. He refused to acquiesce in the Vedic ceremonialism . . . The Buddha's main object was to bring about a reformation in the religious practices and a return to the basic principles . . . While the teaching of the Buddha assumed distinctive forms in the other countries of the world in conformity with their own traditions, here, in the home of Buddha, it has entered into and become an integral part of our culture . . . In this sense

the Buddha is a maker of modern Hinduism." See also Christmas Humphreys, *Buddhism*, Penguin Book, 1955, p. 58, E. A Burtt, *The Teachings of the Compassionate Buddha*. A Mentor Religious Classic, 1955, pp. 15 - 19. Dr. Surendranath Das Gupta (quoted in D.C. Ahir, "Buddhism and Indian Culture," in *Buddhism's Contribution to The World Culture and Civilization*, Ed. Ananda Gruge and D.C. Ahir, The Maha Bodhi society of India, 1977 p 102). observed: "Most of the highest teachings of the Puranas can be read word for word in the Buddhist scriptures which preceded them. Many of the myths and stories of the Puranas too owe their origin to the Jatakas and the Avadanas. The whole of Patanjali's Yoga sutra with its Vyasa-bhasya does not seem to be anything more than a Hinduised version of Buddhist Yoga." The teachings of Buddha deeply influenced Sankara's Vedantic doctrines, his dialectics and his methods of approach; similarly, the Buddhist thought as expounded by Nagarjuna and other Buddhist scholars guided Sankara's followers like Sriharsa Anandjnana and others in formulating the Vedanta into a rational system of philosophy. Thus, while on the one hand, Buddhism shares substantially the basic presuppositions of Hinduism (see Radhakrishnan, op. cit. pp. 162 - 163), Hinduism, on the other hand, has 'underneath its surface a thick layer of Buddhism' which in course of time grew into a distinctive religious tradition and expanded absorbing and refining in the process the traditions and cultures of the people in different parts of the world which accepted the Buddha's message.

A map and write-up on the geographical distribution of religious communities provided by the *New Encyclopaedia Britannica* (Vol. 8, p. 888 and Vol. 15, pp. 629 - 31. Encyclopaedia Britannica Inc., 1979) show that besides South Asia, Hinduism is prevalent in South -East Asia, East and South Africa,

Surinam and in islands such as Fiji, Mauritius and Trinidad. Similarly, Buddhism, classified as Indian religion, is found distributed not only in South Asia but in Central and South-East Asia, China, Korea and Japan.

30. In this context Kamla P. Malla *Nepal: A Conspectus,* op. cit. p. ii) observed: "One of the most powerful impacts on the process of the Buddhist-Brahminical synthesis had been the arrival of Tantrism from neighbouring Magadh and Bengal (c. 8th to 12th century A.D.). The effect of Tantrism is not only to bridge the gulf between classical Hinduism and popular Hinduism, but also to merge popular Hinduism and popular Buddhism into an admixture of ritualism and pantheon, resulting in a certain amount of special cohesion and emotional integration." While grouping the Nepali people into four major divisions, viz., Hindus, Buddhists, Muslims and tribal shamans, on the basis of religion, Dor Bahadur Bista (*Hindu Kingdom and its Social Aspect,* in *Nepal: A Conspectus,* op. cit. pp 14-15) observed: "Every religious groups had developed a distinct style of religious practices and belief which brings them closer to each other than to the fellow believers of the same creed or faith elsewhere... Nepalis at large have always been very open and practical in matters of religious faith and practices. Rigidity and orthodoxy have never been part of their life except for a very few individuals of some isolated minority groups. Thus, the definition of a Hindu society in the classical sense of the term is not applicable to Nepali society in general." Dr Prayag Raj Sharma 'Culture and Religion; Its Historical Background', in *Nepal: In Perspective,* op. cit. p. 77) observed: "History shows that the core of Nepalese culture was formed by the Nomadic Aryans coming north from the Indo-Gangetic plains and meeting the different groups of Mongoloids in the latter's habitat in the Hima-

layan foothills." The fundamental unity between Hinduism and Buddhism is thus substantiated by the Nepalese model of cultural effervescence. "A peculiar characteristics of Nepalese Hinduism is the incorporation of tribal religious elements in its pantheon" (Ram Rahul *Modern Nepal,* Jawaharlal Nehru University; India; Munshiram Manoharlal Publishers, 1985pp. 6)2 For some more representative views on a harmony of positions. In Hinduism and Buddhism in general and in Nepal in particular, see, Balchandra Sharma, *Nepal ko Aitihashik Ruparekha,* Varanasi, 1951. pp. 123 - 24. K.M. Munshi, 'Foreword' in *The Classical Age,* Bombay: 1954. p, xx. R. C. Majumdar, 'Religion and Philosophy' ibid, p. 367, ibid, in *The Age of Imperial Kanauj,* ibid, 1955, pp. 256 - 57. H. D. Bhattacharya, ibid. pp. 326 - 27, Anant Sadashiv Alteker, *Presidential Address,* All India Oriental Conference. K.P. Jayaswal Research Institute; Patna, 1957, p. 15. *Sanskriti,* ed. Gehendredev Pathak, Vol. I. No. I, Kathmandu; 1958. pp. I - 9. Surya Bikram Gewali, *Nepal Upatyaka ko Madhyakalin Itihas* Royal Nepal Academy, Kathmandu: 1962, pp. 254 - 60. Punyaratna Vajracharya, *Hamro Sanskriti,* Kathmandu, 1963. pp. Jagadish Chandra Regmi, *Lichchavi Sanskriti,* Kathmandu, 1970. pp. (c), (d), 311 - 16; Kamal P. Malla and Pashupati Shumshere J.B. Rana, 'Nepal in Perspective: An Introduction', in *Nepal in Perspective,* CEDA, Kathmandu, 1973, pp. 8-11, Dhanavajra Vajracharya, *Lichchavikal ka Abhilekh,* Kathmandu: CENAS: 1973. pp. 42 - 43, 535, Lallanji Gopal & Thakur Prasad Verma, *Studies in the History and Culture of Nepal,* Varanasi: Bharati Prakashan, 1977, pp. 4-5. Chudanath Bhattarai, 'Nepali Rajmukuta ra Dharmik Parampara' in *Nepal,* Vol II. No. 2 Kathmandu: His Majesty's Government, 1980, pp. 18-19. For extensive and detailed discussion on the syncretic Culture of Nepal see "Religious Trends in Nepal's History"in *Cultural Heritage*

of Nepal, ed. R.S. Verma. Allahabad: Kitab Mahal, 1972. pp. I - 23. For a new approach to, and a fair idea of evolution as well of Hinduism, see, Nirad C. Chaudhuri, *Hinduism: A Religion To Live By*, London: Chatto & Windus, 1979.

31. 'Conventions and Treaties Relating To Human Rights of which Nepal is a Party', His Majesty's Government of Nepal, Kathmandu, 1978. see also 'Human Rights: International Instruments, New York: United Nations, 1979, p. 8. S.P. Gyawali, "Towards Better Legal Order," Kathmandu: *Voice of Nepal* 1969, pp. IO - 17. His Majesty's Government, *The Constitution of the Kingdom of Nepal*, 2047 Kathmandu: Ministry of Law and Justice, part III and IV. His Majestry's Government, *Mulki Ain*, Part III & IV, Ministry of Law and Justice, Kathmandu, 1978, pp. 103 - 151, 185 - 96, 201 - 205 - 242. Rewatiraman Khanal, *Mulki Ain: A Critical Study*, Kathmandu : Sajha Prakashan, 1975, 23 - 29, 35 - 42, Lynn Bennett, "Tradition and Change in the Legal Status of Nepalese Women", Kathmandu CEDA, 1979. xi - xiii, pp 1 - 9. For laws governing the legal status of Nepalese women, see Lynn Bennett, op. cit. 3 - 75, 86 - 90.

32. See, supra section pp. 10 - 13

33. Fore discussion on the orgin of Hindu-Buddhist conception of human rights see supra section. pp. 13-15 and infra Chapter 2, pp. 35

34. MCDougal, Lasswell, Chem, op. cit. pp. 5 - 6.

The Concept of *Dharma*

CHAPTER TWO

The concept of *dharma* holds the key to the understanding of human rights of Hindu-Buddhist origin. In the ideal Hindu-Buddhist polity the collectivity as well as the individual derive their legitimacy from the system. The predominant philosophical base of such a model of society is deeply influenced by the doctrine of collectivity. The State, the community or the group rather than the individual is assumed to have rights. lt is to *dharma* or collective consciousness that the components of the organic whole, namely, the State, the community and all individuals including the monarch or the highest excutive authority owe allegiance.[1] According to Gandhism, *Dharma*, that is, the search for Truth in this world, has a place even higher than Moksha, that is, "final deliverance from this world and assimilation with the final truth".[2] Based as it is on the doctrine of *dharma* and restrained individualism, Gandhism lays down that every individual is responsible for his own action not only individually but also collectively. It postulates that if individual human followed *Dharma*, he or she would be able to stand alone. Only that kind of individual can play a conscious role for social change and yet not be forced to act against their will. It, therefore,

prescribes that humankind must learn "to strike the mean between individual freedom and his or her social restraint, the willing submission to social restraint for the sake of the well-being of the whole society of which he or she is a member."[3]

Definition

The underlying central idea of *dharma* is that a human being though a creature of the evolutionary process, is distinguished from other animals species by their endowment of reflective capacity which enables them to discriminate between the Good and the Evil. *Dharma* assumes that the humans are self-conscious beings and, therefore, higher than those animals which have mere impulses and passions. Humans can exercise their free-will in choosing the right as against wrong. In other words, *dharma* postulates that humans possess general moral sense.

As the idea of moral choices inherent in the concept of *dharma,* the term *dharma* may be understood as representing the moral principle which lends human life its worth and makes for the meaningfuiness of the system that has been evolved to support human life. This is one of the reasons for regarding *dharma* as the foremost of the four-fold fundamental aspirations of man (*purusarthas*) among others, viz., 'artha', 'kama' and 'moksha' of Hindu - Buddhist social philosophy.

However, it is admitted at all scholarly hands that the term *dharma* is not amenable to precise definition, for the simple reason that it has changeable significance."*Dharma* is the principle that sustains all existence, embodies the whole truth, and covers all the forms, institutions and practices loftiest heights. *Dharma* in the practical sense stands for belief, ritual and conduct.

It was felt that *Dharma* stood above all the rules of the world and was binding up on them. *Dharma* was conducive to the highest good. *Dharma* is easily equated with the totality of social relationships. At the same time, it was perceived that identification with society was an aspect of, or a step in the identification with the universe. Society was not only inevitable, but also desirable; for it assisted the development of the psyche and ought to be an instrument of elevating the human soul. Accordingly, the social aspect is comprehended in the spiritual, and Hindu social theory approaches all problems from a profoundly spiritual standpoint. Nevertheless, its comprehensive significance can be grasped by considering various available definitions and analyses of the term,.[4]

"The term *dharma* is of complex significance. It stands for all those ideals and purposes, influences and institutions that shape the character of man both as an individual and as a member of society. It is the law of right of living, the observance of which secures the double object of happiness on earth and salvation. It is ethics and religion combined." *Dharma* is neither a system of abstract ideas and beliefs having no necessary connection with life, nor a set of rules to be followed blindly in daily life without any understanding of their basic principles. Rather, it is a conscious adoption of the principles of a perfect life in the world." *Dharma* is "truth law as understood by man's reason and conscience and as found in the sciptures and interpreted by (the) Brahamans." *Dharma* is "the general Hindu way of life with a religious sanction behind it."

Some insights into the nature of *dharma* can be gained by analysing it etymologically . The term *dharma* or

dhamma is not a Sanskrit equivalent of English word 'religion' which is of Latin origin.[5] The term cannot be rendered into any other language. It is a complex term, as it has gathered and continues to gather more and more meaning ever since its birth in the Vedic Age.

All standard lexical equivalent terms for *dharma*, such as religious merit, virtue, righteousness, duty, right, morality, justice, the good, the characteristic, tradition, ordinance are suggestive of the meaning of the terms. The word *dhamma* is a Pali equivalent of Sanskrit *dharma*, and both the terms derive from the root *'dhri'*. *Dhamma* is used in the Buddhist literature with as wide a range of meanings as *dharma*.[6] The term is related to the Latin terms, *firmus* (firm), and *forma*, (form), for, etymologically, they also derive form the root *dhri*. The root *dhri* means to uphold, sustain and nourish.[7] So if we go by the root meaning, *dharma* is that which "holds a thing and maintains it in being, that which sustains the universe."[8] or, it means "the 'form' of things as they are and the power that keeps them as they are and not otherwise."[9]

Philosophically, the term *dharma* traces its ancestry to the Vedic word *rta*.[10] meaning 'orderly whole 'right order' and 'truth'. *Rta*, therefore, is "the right order of the universe, It stands for both the *satya* or the truth of things as well as the *dharma* or the law of evolution.[11] In other words, "it is the law that governs the universe, the law that with equal impartiality regulates the conduct of man."[12] In this sense, *rta* would appear to correspond to natural law.[13] In usage the word *dharma* succeeded the term *rta* in later Vedic Age connoting the same meaning as implied by *rta*.[14]

In modern usage, the term *dharma* bears two general senses. First, it is used to signify that which is set down

in the sacred Hindu-Buddhist texts themselves. In this sense, *dharma* corresponds to what is called 'canon law'- a law that is precisely defined and explained in the legal treatises - together with the religious assumptions on which such a law is based. The term *dharma* gathered this connotation at an enormous length of time and space of the huge corpus of Hindu-Buddhist sacred literature.

Second, it is used to signify the eternal law that governs all existence - human as well as non-human. In this sense the concept of *dharma* corresponds to that of 'natural law' which has deeply influenced the western liberal thought. It is this significance which lends subtle and complex meaning to the term. In the cosmic or natural order, it means the law which makes for the cosmic nature of the universe, the principle that operates in nature and is, in modern sense, the subject-matter of the natural sciences. Of far more fundamental significance is its use to express the idea of moral principle which governs the universe. And, it is this usage of the term that has a direct bearing on the development of human rights in the Hindu-Buddhist context.

For the term in this sense lends meaning to the existence of human society in the Hindu-Buddhist world. In the Hindu-Buddhist praxis d*harma* means the observance of truth in the conduct of life. It is truth in deed. It provides moral strength, which in term fortifies free-will and releases tension of mind. Dharmic individual life makes for harmony and stability in society, because by extension of meaning, a life regulated by *dharma* means to hold, have and maintain perfect life in the world. It is to convey this meaning the term *dharma* is used to denote the general good sense of a man who aims to, and actually works for, the welfare of others. And since, the concern of a dharmic man for the welfare

of others knows no geographical limitations, the use of the term is extended to denote universal brotherhood and welfare of humanity as a whole. *Dharma* thus defines the Hindu-Buddhist society.

Dharma as a Process

Dharma as a process corresponds to the notion of "the ordering and coordinating agent" in the light of two principles - individual well -being and social welfare. At the individual level, it "is the process of developing the different desires in man, properly and harmoniously, so as to afford each desire maximum scope for development".[15] It is in this sense *dharma* is referred to as a process of choosing the Good against the Pleasant, with one's free-will and knowledge, as the Law of one's own being. Social welfare is achieved when morally well developed individuals come together, influence one another, and recognize the value of Social Good (*dharma*), and the need for sacrifice and dedication. For instance, when *dharma* regulates the acquisitive instinct of man, the value of *artha* may be realized in its social context. Similarly, when *dharma* controls the activities in the realm of *kama*, personal satisfaction as well as harmonious relationship between the sexes may be achieved.

Dharma as a Means

Dharma is conceived as a means for proper pursuit of other values (*artha* and *kama*) in human life so that personality integration in the ultimate sense (*moksha*) can be achieved. In contrast to the concept of ultimate good (*moksha*), *dharma* as a means to attain *moksha* is referred to as the social good. By implications, in the absence of *dharma* as an instrument of integration of human personality, *artha* and *kama* may be pursued as ends-in-themselves but *moksha* may not be realized at

all. It may be noted here that it is for this reason *artha* and *kama* are considered not as extensions of *dharma* but as its accessories in the *purusartha* scheme (the four-fold aspirations or values of Man) which aim at producing a rounded personality and an efficient society.[16]

Dharma has also been conceived as an end-in-itself, and intrinsic value, particularly by the school of Mimansakas, in anticipation of Kant's Categorical Imperative. This school maintains that "*dharma* is a supreme Good and is above *artha* and *kama* as empirical motives taken in their totality, and not as instrumental to *moksha*."[17] However, this school also eventually fell in line with the other systems of Hindu philosophy in accepting *moksha* as the supreme value.

In modern times, the Gandhian school of Hindu philosophy has imparted a new meaning to *dharma* by considering it as a value equal to *moksha* itself. Gandhi asserted that *moksha* and *dharma* can be interpreted as being the same. He perceived *dharma* as the beginning as well the end in itself.[18]

According to a recent interpretation of *dharma*, "the Hindu concept of *dharma* is one of discharging one's duties, duties to oneself, to one's kith and kin and society, to the state and country, and to the past cultural inheritance and the future; the stress is laid not on fundamental rights but on duties."[19] The concept of rights and privileges by their very nature gives rise to an atomistic conception of man; individuality rather than humanity as a whole is emphasized more. But, on the other hand, the dharmic conception of man has the potentiality to attenuate individualism, merge man in a common ideal, make him sacrifice himself for that ideal and promote co-operation and unity in society.[20]

In this sense, *dharma* can be interpreted as a syn-

onym of virtue or righteousness which consists of one's doing his own duties, living in peace and harmony, with development of character and refinement of soul.

Two Approaches

The meaning of *dharma* can also be gathered from considerations of the contentions of orthodox and liberal schools of *dharma*.[21]

The orthodox viewpoint is that the concept of *dharma* is rigid, immutable and it is for all times. It is an unchanging set of moral laws. The protagonists of this school argue that if the imperative tone of the moral commandments and categorical nature of ethical codes have any significance at all, *dharma* as the principle of morality and righteousness has to be the same always and, hence, no change in the concept is justified. They contend that the ideal as such may be difficult or impossible to practise fully on one's life, but that is no reason why it should be modified or changed to suit needs of the time and the whims of a particular individual. They say the uniqueness of human kind lies in his or her unswerving pursuit of the ideal. According to this view the truths contained in the *Dharmasastras* are the absolute standard of morality, and it is the failure of individuals to follow the standards laid down there that cause social evils and various maladies.

The liberal view of *dharma* is that since *dharma* is significant for humans and humans only. It cannot be but flexible, changing and mutable. Since human being is endowed with the power of reasoning, he or she can correlate to his or her own times the meaning of the concept and principles laid down. The advocates of this school of thought point out that spirit behind the moral commandments or ethical rules has to be grasped and

applied to one's times. They argue that uniqueness of human consists not merly in the strength of will to follow unattainable ideal, but also in his or her capacity to reflect carefully about the implications and deeper significance of the ethical sides. *Dharma* need not be considered synonymous with a mechanical and unquestioning adherence to traditional ideas or ideals. It is "the creative expression of the total personality of the growing human being."[22] According to this view *dharma* cannot be the same for all and the same for one man all the time. It is determined by the total situation which is undertermined.[23] It is a growing principle of the development of individual personality and the maintenance of social order. It is to be understood in terms of its relevance to human life, not in terms of certain theoretical treatises. This view points out that the *Dharmasastras* are mere human compositions and they cannot be considered infallible. In fact, the Hindu theorists have not only permitted changes in *dharma* recognizing its infinite elastic adptability of the nature of *dharma* but have acknowledged the necessity of change and the acutal changes in the conception of *dharma*. The nibandhas (the law-digests), for instance, have played a vital role in determining the moral ideals of the different ages.

Absolute and Relative *Dharma*

From an analytical discussion of the sources of *dharma* also a unique feature of *dharma* may be derived. The sources of *dharma* as stated by Manu are : *the Veda, the Smriti,* the approved usage, and what is agreeable to one's soul or good on science, where there is no other guide.[24] Also the two great epics, *the Ramayaya* and *the Mahabharata* which are regarded by the Hindus as treasure house of ethical precepts and as the epitome of Hindu culture, and the *Puranas,* which contain a mine infor-

mation about the geographical, political, historical and religio-cultural ideas about ancient Hindu world, are regarded as other sources of *dharma*.

On the basis of the analysis of these sources of *dharma* Hindu theorists have distinguished *dharma* as of absolute and relative nature. The Smritis, for instance, describes the duties (*dharma*) of humans in the various stages of life (asrama-*dharma*) and in the different stations (verna-*dharma*). According to the asrama-*dharma* different types of duties are prescribed for the different stages through which a human being passes. At the first stage of life, i.e. Brhamacharya asrama, an individual has to observe a set of duties (*dharma*) which are not the same as these prescribed for the second stage of life, viz. grahastya asrama. *Dharma* is relative here. But, the *dharma* of an individual at the first stage of life i.e. Brhamacharya asrama, an individual has to observe a set of duties (*dharma*) which are not the same as these prescribed for the second stage of life, viz. grahastya asrama. *Dharma* is relative here. But, the *dharma* of an individual at the first stage of life is absolute to him or her and so also *dharma* of other stages of life are absolute for individuals in the respective stages. Similarly, according to the *varna dharma*, each varna (station or class) of society is associated with a particular type of function, and each individual belong to a particular varna and has to carry out the duties (*dharma*) of his or her respective varna, and not indulge in the *dharma* of others. In this sense *dharma* is absolute. At the same time it is relative in the sense that not all individuals are expected to observe the same duties at a given time and throughout their lives. "*Dharma* is absolute in the sense, that the agent who is to perform it is abound by it. The relativity of *dharma* means that it is not one and the same for all and in different contexts. It is not relative in the sense

that it is different to one and the same individual at different times."[25] Its varied nature does not affect its absoluteness, its obligatoriness.

General and Specific *dharma*

Dharma also means service to the community as well as to the mankind in general. The idea underlying this concept of *dharma* is that individuals owe a debt to the community and to the mankind in general for all the protection and help, accorded to them. So it is their *dharma* to pay off their debt to their particular community in a specific way according to their capacity for the special advantages and opportunities of life it provided for them. This is *specific dharma* and it has a limited scope. The Varna-*dharma* and asrama-*dharma* are this kind of relative *dharma*s. Similarly, the individuals are indebted to mankind in general by whose culture and experiences they profit in their careers through life. It is their *dharma* therefore to pay off this larger debt in howsoever small an amount, by assisting the cause of humanity in general and seeking the common good as distinguished from the good, of say, their varna. This is called sadharana (general) *dharma* and it has universal scope and validity. *Dharma* has yet another aspect. It has the general meaning of ethical excellence and a narrower meaning of ceremonial injunctions and performace of rituals and ceremonies which purify the individual.[26]

Dharma and Human Rights

From the discussion above an idea of the multi-dimensional aspect of the concept of *dharma* is derived. It also becomes clear that no aspect of the Hindu-Buddhist life is left untouched by *dharma* in one or the other sense. *Dharma* is that condition of Hindu-Buddhist life without

which no Hindu or Buddhist can be his or her best self.[27] It is only in a world of *dharma* that rights have any significance in the Hindu-Buddhist context. Rights which are not related to *dharma* have no raison de'etre in Hindu-Buddhist society. For, such rights sans *dharma* have no social recognition. Only those rights are accorded sanction which are in conformity with the principle of *dharma*. And rights which lack the sanction of society are by definition, not rights but mere empty claims, fancies or wishes. In the politico-legal system, if the State is to justify its claims to rule and command obedience and acquienscence, it must make provision for those rights which the society deems as fundamental. And in the Hindu-Buddhist politico-legal system, rights which do not imply *dharma* are meaningless and are therefore, not recognized as rights.

Human rights which are assumed to be fundamental to the very existence of human life, in individual or collective form therefore, in the Hindu-Buddhist context, must imply *dharma*, The Hindu-Buddhist society is built on the foundation of *dharma*. Anything which is dharmic tends to get social sanction easily. Anything which is dharmically good means humanistically good. For the very basic assumption of the concept of *dharma* is that humans as distinguished from animals are endowed with reflective capacity which enables him to discriminate the Right from the Wrong, or the Good from the Evil. So, in the Hindu-Buddhist society, any right which is dharmically justified is basic to the existence of human being and for their *moksha* too eventually. Rights therefore which do not imply *dharma* are not fundamental in the Hindu-Buddhist context.

The Balance of *Dharma*

It has become evident that the Hindu philosophers

have recognized *dharma* not only as the ideal fixed by sacred texts and to be pursued with unswerving zeal and undaunted courage, but also as a reality of life which changes pragmatically with time and circumstances.[28] It is this dynamic aspect of *dharma* which signifies the infinite clastic adaptability of human rights as understood in the Hindu-Buddhist context. Human rights of Hindu-Buddhistic notion cannot be taken as ideal rights or ethical standards to be adhered to under all circumstances. They are neither divinely ordained nor are they derived from the immutable, universal, absolute law of Nature' as the unchanging standard of ethical behaviour.

Since these rights imply *dharma*, they have also changed with the changing meaning of *dharma*. Implications of this correlation between *dharma* and human rights have been vividly summarised by Radhakrishnan thus: "*Dharma* is just like an elastic tissue which clothes our growing body; if it is too tight, it will give way, and we shall have lawlessness, anarchy and revolution. If it is too loose, it will trip us and impede our movements."[29].

The main aim of the traditional Hindu-Buddhist state was to ensure *dharma* so that the people were protected and were able to discharge their duties in peace and harmony leading to welfare and progress of the society as a whole. By implications, the State or the King would preserve *dharma* by punishing all those who would not fulfil obligations. In other words, Human Rights as implied by the concept of *dharma* were fully protected by the traditional Hindu-Buddhist state. It may be emphasized here that preservation and promotion of *dharma* could not be interpreted as state protection and advocacy of a particular sect or religion. It meant "fostering of a feeling of piety and religious-

ness, by encouraging virtue and morality, by extending help to the establishments belonging to all religions and sects, by maintaining free hospitals and feeding houses for the poor and decrepits and last but not least, by extending patronage to literature and science. " In the Hindu-Buddhist polity, *dharma* is a secular concept, and it constituted the main objective of the State because it represented the concept of law and order as well as progress of society. It meant a sum total of the rules and regulations that brings about the welfare of the people. Human rights, in other words, were that implied by *dharma*. And, as such the Hindu-Buddhist State could not be likened to the Vatican State of the Pope, the State of the Dalai Lama of Tibet or that of the Khalifas. The Hindu-Buddhist State was essentially secular in nature.

In understanding the corelational aspect of *dharma* and human rights in the Hindu-Buddhist context, it is important to bear in mind the dharmic nature of the society. *Dharma* being the guiding principle of Hindu-Buddhist life, the State laid more stress on *dharma* rather then on claims or rights. It stressed more on collectivity rather than on individuality, individual rights and liberties as understood in the western liberal democracy. "The rights of the individual are today not worth serious criticism... The welfare of the community is the ultimate standard." (F.H.Bradley). The idea of collectivity pervaded all walks of life in the ancient Hindu-Buddhist society.[30] The underlying assumptions of this conception of collectivity is that "human society as an organic whole, the parts of which are naturally dependent in such a way that each part in fulfilling its distinctive function conditions the fulfilment of function by the rest, and is in turn conditioned by the fulfilment of its function by the rest. In this sense the whole is present in each

part, while each part is indispensable to the whole. Every society consists of groups working for the fulfilment of the wants of the society. As the different groups work for a common and are bound by a sense of unity and social brotherhood. The cultural and the spiritual, the military and the political, the economic classes and the unskilled workers constitute the four-fold caste organization. The different functions of the human life were clearly separated and their specific and complimentary character was recognized. Each caste has its social purpose and function, its own code and tradition. Each group is free to pursue its own aims free from interference by others. The functions of the different castes were regarded as equally important to the well-being of the whole. The varna scheme insists that the law of social life shold not be cold and cruel competition, but harmony and co-operation". The members of the different groups must share certain community of feeling, a sense of belonging together for good or evil if they are to realize their potentialities, as a group in contrast to the individual interests. The philosophy of community life was also inspired by the basic idea inherent in the concept of *dharma*.[31] It was a sort of pervasive imperative in the philosophy of life which lends social dimension to the concept of human rights in the context of the Hindu-Buddhist society.

In the ancient Lichchavian society of Nepal, for instance, the *Gosthi*, based on the idea of *dharma*, had imparted social dimension to the concept of *dharma* by undertaking collective religious and social welfare works in co-operation with or participation of the people.

Notes

1. The idea of *dharma* is comparable to that of 'conscience collective' of Durkheim, see Anthony

Gidden(ed), *'Emile Durkheim's Selected Writings'*, Cambridge University Press, 1972, pp.5, 27, 22. It is also compared to *Sittlichkeit* of the Germen, see Radhakrishnan, *Indian Religions*, Vision Book, 1979,pp 61 + 77.

2. J.D. Sethi, *Gandhian Values and 20th Century Challenges*, Patel Memorial Lectures, 1979, Publications Division, 1979, New Delhi, pp. 12-15,17,23,45. See also *Collected Works*. Vol. 19, New Delhi: Publications Division, p.522.

3. J.D. Sethi, ibid, p. 45.

4. Dr. Beni Prasad, Political Theory and Administrative System, Chapter XVII in *The Age of Imperial Unity*, Bhartiya Vidya Bhavan: Bombay. 1953 (2nd Edition) pp. 307 & 308.

4a. S. Radhakrishnan, *Indian Religions*, New Delhi, Vision Books, 1979, p. 71; S. Chatterjee, *The Fundamentals of Hinduism*, p1. as quoted in S. Gopalan's *Hindu Social Philosophy*, Wiley Eastern Ltd. 1979, p.137; K. Satchidananda Murdy, *Indian Foreign Policy*, Calcutta, 1964, p. 129 Nirad C. Chaudhuri, *The Intellectual in India*, New Delhi, 1967, p.1

5. About the equivalent term in English of the term *dharma* there is unanimous view among scholars that there is no single English word to represent the term *dharma*. See, for example, Troror Ling, *The Buddha*, London: Temple Smith, 1973,p. 27, Humayun Kabir, *Indian Philosophy of Education New York*: Asian Publishing House, 1961 I, P. 179. K. M. Sen, Hinduism Penguin, 1965. P. 38. Nirad C. Chaudhuri, *Hinduism: A Religion to Live* By London: Chatte & Windus, 1975, pp. 2 & 17.R. C. Zaehner, *Hindu Social Philosophy*, Wiley Eastern Limited, 1979, p.135

6. An idea of the range of meanings of *dharma* can be had from the following attempts to approxi-

mate to its translation into equivalent English words: "Doctrine, law,righteousness; phenomenon; thing" (See Ananda W.P. Guruge, *Buddhism*, Madras: M. Seshachalam & Co. 1975, p229); "law, norm, duty teaching, right" (Christmas Humphreys, *Buddhism*, London; Penguin Books, 1975, p244) "the natural condition of things or beings, the law of their existence, truth, religious truth, the Buddhist Doctrine, the Law (Law), the ethical code of righteousness. "(*The Wisdom of India*, ed. Lin Yutang, Bombay; Jaico Books, 1955, p587); Daisaku Ikeda (*Buddhism, the First Millennium*, translated by Burton Watson, Kodansha International, 1977) provides Japanese equivalent of *dhamma* as 'no', meaning Buddhist Truth or doctrine, Law, the Truth of the Buddhist religion; "That which is established or firm, and by extension, "customs, law, duty, doctrine, religion" (Gefoffrey Parrinder, *Asian Religions*, New Delhi: Sterint Publishers, 1977, p.70): "law, a moral law, a spiritual law of righteousness, the eternal law of the Universe, Truth". (*The Dhammapada*, translated by Juan Mascaro, Penguin Books, 1977, p.9):

Similarly, great many scholars of Buddhism have tried to interpret the meaning of the term *dhamma* from various aspects. Referring to the Ashoka's rock edicts, Trevor Ling (see, *the Buddha*, London: Temple Smith, 1973, pp.160-162), observes: The word *dhamma* was used widely, not only by Buddhists, and could bear a quite general meaning, such as, 'piety', But when the whole range of Ashokan inscriptions is taken into account, there seem little room left for doubt that when Ashoka used the word he meant *Buddha-dhamma*. For the *Dhamma*, says Ashoka, is "good behaviour towards slaves and servants, obedience to mother and father, generosity towards friends, acquaintances and relatives, and towards shramanas and brahamins, and abstention from killing living beings 'There are broadly two kinds of virtue mentioned here, Trevoer

Ling, points out, first, various role-responsibilities; to servants, to parents, to friends, and relatives, or to shramanas and brahmins, and second abstention from killing living beings' This basic pattern in the exposition of *Dhamma* occurs elsewhere in the inscriptions. Taken together, he further points out, the catalogue of social responsibilities mentioned in the inscriptions corresponds closely to the well-known list in the 'layman's code of ethics', the Sigala-vada Sutta of the Buddhist Pali canon.

7. see, *The Mahabharata*, Karnparva; 'dharanat *dharma* it yahuhu.

8. See, Radhakrishnan, *The Hindu View of Life*, London: Unwin Books, 1963, p.56.

9. R. C. Zachner, *Hinduism*, Oxford University Press, 1966 pp2-3.

10 The concept of *Rta* was introduced to the Hindu-Buddhist world by the Aryans. In the Vedic age it expressed the idea of universal order and law. It reflects the Vedic belief that the world is an actually existing organized cosmos (*Sat*) governed by order or truth (*rta*) and that it is always in danger of being destroyed by the powers of chaos (*asat*). The concept postulated the firm belief that the universe was an orderly universe, that it was not subject to the blind whims or fancies of the Gods, that the gods themselves were bound by the supreme law.

The term *rta* has been used in two sense-primary and secondary. In its primary sense it means that the physical basis of Varuna, -the upholder of the physical and moral order symbolised in *rta* with which he is more intimately associated than any other Vedic gods. *Rta* is believed to be Varuna's pasa,for it is taken as a wheel circumscribing the universe, regulating it and keeping it in proper

place. It has for its physical basis the belt of the zodiac from which no luminary (deva) may deviate and the penalty for transgression whereof is ensnarement by the shackles of non-rita or darkness and death. (see, V, M. Apte, *Religion and Philosophy*, in *The Vedic Age*, ed. R. C. Majumdar, London: George Allen & Unwin, 1952, pp.365 - 366). In its seconday sense, *rta* denotes very naturally the cosmic order, or law prevailing in nature, In the moral sphere the term implies 'order' through the meanings "truth" and "right", and in the religious world "the order" takes the form of sacrifice or rite. Sin resulted from the violation of *rta* or "order" in the moral sphere as well as in the religious one or of the commands of God. (see, ibid, ibid, ibid, ibid, pp.379 & 382).

Rta manifests itself equally in nature and in human society."(see, Radhakrishnan, *The Hindu View of Life*, Unwin Books, 1963 p.52) Dr. Radha Binod Pal observes: *Rta* is conceived as the organized principle of the universe and is indeed the *lex acterna* of the later Roman thought. In the human world, *Rta* was embodied and its reflex in that social or moral order we call society, in which the rule of class-father corresponded to that of the Heaven (dyoh). The Vedic society has come to be recognized as consisting of several classes each characterized the social order, the replica or cosmic order - *the Rta* - in the human world. "(see, H. N. Sinha, *The Development of Indian Polity*, 1963, pp16-17.)

11. Radhakrishnan, *The Hindu View of Life*, London: Unwin Books, 1963, p.56

12. R. C. Zaehner, *Hinduism*, Oxford University Press, 1975, p.30

13. M. C. Setalval, *Law and Culture*, Bombay: Bharatiya Vidya Bhavan, 1965, p.17.

14. Zaehner, *Hinduism*, Oxford University Press, 1966, p. 30. The existence of the world, especially of moral order in it, without which even material order could not survive, was dependent on an abstract entity which was moral rather than religious. It was *Dharma*, which was certainly descended from the old notion of *rta*. "(see, Nirad C. Chaudhuri, *Hinduism: A Religion to Live By*, London: Chatto & Windus, 1979, p,17).

Even term *Dhamma* in the edicts of Ashoka the Great' does not refer to "physical or astro-physical laws of the self-sustaining" Pudgala or *kana* (atoms) as much as to " the reign of religious law, to a norm or rule of life, to *rta* or satya which means truth on the line of the Vedic Brahmins, "(see Kaisher Bahadur K.C., *The Judicial Customs of Nepal Part I*, Kathmandu, 1971 p. 64 ff.)

15. S. Gopalan, ibid, p.141

16. ibid, p. 159

17. ibid, p. 162, see, ibid, n.105 p. 173 for a brief comparison between the Prabhakara concept of *dharma* and Kant's concept of duty for duty's sake.

18. see, p. 35 supra and n. 2. supra

19. S. Gopalan, ibid; p. 139 and ibid, n. 30

20. ibid, ibid and Sethi, op. cit. pp. 45-46

21. S. Gopalan has extensively dealt with the main arguments of the two schools of *dharma* (op. cit. pp. 127 - 131.)

22. ibid., p.129 - 130.

23. ibid. see also A. Radhakrishnan, *Religion and Society London;* Allen and Unwin, 1932, p.115.

24. About origin and significance of the Manu

- Smriti, see P. V. Kane, *History of Dharma-Sastra Vol. I, and Vol II, Part I.* p. xi. see also R. C. Majundar, ed. , *The Age of Imperial Unity*, Bombay; Bharatiya Vidya Bhavan. 1953. pp.254 - 257.

25. S. Gopalan, op. cit., pp. 151 - 152 and n. 68 p. 170

26. ibid, p. 152.

27. S. Radhakrishnan observed (see, *The Hindu View of Life*, op. cit., p.77) "The sovereign power is not identified with the interests of the governing classes but with those of the people at large. While *dharma* represents the totality of the institutions by which the common weal is secured and the life of the people is carried on, Government is the political organisation which secures for all the conditions under which the best life can be developed. "For a discussion of relationship between *dharma* and freedom, see, ibid., pp. 57 - 65.

28. For Radhakrishan's view on the dynamic aspect of *dharma*, see *Religion and Society* op. cit. p. 115. Referring to the monumental work of the Sanskrit scholar P. V. Kane, S. Gopalan (see *Hindu Social Philosophy* op. cit., pp. 133 - 134) observes: "The great Sanskrit scholar, P. V. Kane has maintained and almost conclusively shown that the reference to 'change of *dharma*' is not just an interpretation or reading between the lines by modern scholars. He has, in his massive volumes on the *Dharmasastras* gathered with unparalled diligence, all cases of changing moral idea through the ages.

29. S. Radhakrishnan, ibid p. 119

30. The main characteristics of the Hindu-Buddhist social system has been more clearly elaborated by L.S.S.O' Malley (see, "The Hindu Social System" in *Modern India and the West*, London:

Oxford University Press, 1968. p. 354) in the following words:

"The two distinctive characteristics of the Hindu social system, which differentiate it from those of western countries, are its intimate connection with religion and the fact, that it is not so much a synthesis of individuals as of groups. It is socio-religious system, for social rules have religious sanction."

"The chief social in situations, as they existed in their integrity, were not individual but collectivist. The unit was not the individual but the family, which regulated the relations of its members inter se. The inter-relations of different families were governed by the villages community and the caste... All three, the family, the caste and the village community maintained ideological control over the individual, who was bound to conform to their standards. The individual scarcely existed except as a member of a group. Self-determination was only possible within the limits which the latter imposed; the individual development was conditioned by the obligations imposed by its requirements of social solidarity.

31. सर्वे भवन्तु सुखिनः सर्वे सन्तु निरामयाः।
सर्वे भद्राणि पश्यन्तु मा कश्चिद् दुःख भाक् भवते।।

The Background of Dharmic Society

CHAPTER THREE

The Nepalese society is rooted in the ancient tradition and culture of Hindu-Buddhist origin. It is therefore assumed for the purpose of this study that the concept of *dhurma* or *dhamma* can not be ignored in an attempt to understand the human rights in the context of Nepalese society. A society which recognizes *dharma* as an over-arching law of life and is functionally guided by it may be defined as a dharmic society. The ideal Nepalese society was and is developing as a dharmic society albeit under the impact of western culture. It has inherited the concept of *dharma* handed down from the Vedic times. It is *dharma* which sets up an equation between might and right. In ancient Nepal, moreover, *dharma* provided the framework of operative legal system, and thus secured the society against capricious *force majeure*. In the Nepalese context, therefore the human rights achievement cannot be conceived without the existence of a secure dharmic society.

In order to give an idea of a dharmic society in a broader perspective a brief survey of the development of dharmic society from the Vedic Age down to the 5th century A.D. when the recorded ancient history of

Nepal begin to take shape is in order here"[1].

In the Rig Vedic age the regular word for law or custom was *dharman*[2]. It was in accordance with the rules of *dharma* (sacred law) that the King performed his duty of protecting his people. The sages interpreted the law (*dharma*) and the King administered justice with the Purohita's advice.

The concepts of criminal and civil law were fully developed only in the later Vedic period (6th century B. C. to the beginning of the Christian era). Still, even in the Vedic era certain forms of punishments were recognized. The punishment for theft, for instance, was death or severance of hands of the culprit if caught red-handed. Deprivation of the other's property by theft was regarded as heinous crime against the principles of *dharma*.

While in the early Vedic age, the visah (settlements) which constituted the rashtru (national unit) could select a king, despite the fact that kingship was hereditary, and the two assemblies, called Sabha and Samiti exercised considerable authority and acted as healthy checks on the power of the King, in the later Vedic Age, the kingship began to strengthen its position out of sheer political necessity. But even then, *dharma* continued to serve as a sufficiently powerful motive for restraining the wilful exercise of authority by the king. The duties of the king were clearly set out in the *Dharmasutras*.

The State or the Society was viewed as an an organic whole, in which the different elements such as the king, the peoples played their roles according to *dharma*. The collective organizations were dominated over the individuals. An individual regarded performance of duty, which he or she inherited as a member of a group, as his or her highest object in life - for on this depended

not only his well-being in this life but salvation(moksha) hareafter.

It was in the later Vedic age, the real beginning of civil and criminal law was made. Although the *Dharma*-sutras did not contain systematic exposition of legal and political principles, it did indicate clearly that the king administered organized criminal justice on the assumption that a crime is the violation of *dharma* and thus, therefore, the penalty for it in the form of fine must be paid to the king or to a Brahaman authorized by him. The theory of *danda* (the rod of punishment) as the symbol of penal power vested in the king had then fully developed. Detailed rules of inheritance of land property were formulated.

There was of course no code of positive law emanating from the authority of the king. Customs and usages, conventions and precedents relating to different castes, communities, families and localities were openly recognized as having the force of law (*dharma*), and as a consequence, many activities of law. Violation of caste rule for instance was recognized as a penal offence, against the principles of Varna-ashram-*dharma* and dealt with as a heinous crime, such as, theft, homicide and adultery.

Generally physical chastisement or expulsion from the country was the penalty for such crimes. Fine as a punishment was known, but was not systematized. Caste-interest based on the principle of Varnashram-*dharma* was a factor in the regulation of the severity of the punishment. The lower of the caste, the severer the award of punishment was likely to be. The system of private vengeance, moderated by the wergeld (vairadeya) was recognized in this era of *Dharma-sutras.*

During the next period, that is, the period of the

Epics, the *Dharma*-sustras, and the Arthsastras, stretching from Ist to 8th century A. D., the institution of monarchy acquired gradually a halo of divinity, and, as a result, his power became more extensive, and "naturally his wrath was also being dreaded more and more". The powers of the popular assemblies had declined and the institutions themselves has disappeared without any substitutes long before the beginning of the Christian Era. Theoretically the king had no legislative power, but he could supplement the provisions of the customary law by his own ordinances, obedience to which was obligatory.[3]

This period saw the real beginning of the systematic treatment of Hindu law and its full development. It was effected by Manu - Smriti and later by Yajnavalkya, Narada and Brihaspati Smritis and by the Arthasastra of Kautilya as well.

Manu-Smriti which embodies the principles of *Dharma*, provided for the first time a regular classification of law under eighteen heads of titles, such as non-payment of debts, disputes regarding boundaries, theft, adultery, partition etc. Similarly it recommended punishment for severity - (gentle) admonition, (harsh) reproof, a fine, and lastly corporal punishment. Caste privileges and disabilities were reflected in criminal as well as civil law. Difference with the caste of the criminal and the victim. Similarly, different interest rates on debts were laid down for different castes. The law of Manu also prescribed that moment, twice-born, Shudras, and men of lower castes should give evidence only on behalf of the people of the same caste and class.

The later *Dharma-sastras*, such as, Yajnavalkya-Smriti, systematised and expressed the provisions of Manu-Smriti in more concise form. While the Brihaspati accords

first place to Manu Smriti and explains, amplifies, and modifies it occasionally the Narada Smriti gives more elaborate description of the courts of justice and introduces a highly complex judicial procedure.

In sum, by the time the Lichchavis, the ancient Nepalese people, had come to power in Nepal, the *Dharma-sastras* had become the most powerful integrating force in the Hindu-Buddhist world. It provided the basis of the society and the system of human rights as understood then. It represented an embodiment of collective conscience of the people. Its coercive power was derived from its voluntary acceptance by the people. It was not enforced at the point of sword. Dharmic justice prevailed. In other words, a constitutive understanding guided the members of the society in the conduct of their life.[4] Therefore, in the ancient Lichchavi society a necessary but by no means sufficient condition, existed for the development of a system of human rights which may be defined as a set of institutional arrangements for securing dharmic guarantees beneficial to the individuals in their collectivity.

Ancient Nepal

Historiographically, the ancient history of Nepal begins in 464 A.D. the date which has been inscribed in the earliest available inscription of the ruler, King Manadev I, and then passes on into a dark period from 879 A.D. till the beginning of the 13th century when the rule of the Malla dynasty was established in the Kathmandu Valley marking the end of ancient period. But for the purpose of this study the ancient history of Nepal is assumed to have begun in A.D. 400 and ended in A.D. 733.[5] There are, however, sources other than history which indicate that Nepal was in existence long before the Lichchavis came over to the land

comprised by the present-day territory of Nepal, from across its southern border. The name Nepal is referred to as a country as far back as 4th century B.C. in Kautilya's *Arthashastra*. The term Nepal being Sanskrit, it is believed that it derived from the original tribal names such as Nepara or Nebala, for ethnographically Nepal was originally inhabited by the Austric people and then by the Mongoloid immigrants, and the Nepara or Nebala is associated with the Mongoloid tribes.[6] Indeed, the people of Nepal themselves bear eloquent testimony to the antiquity of Nepal. The Nepalese tribes such as the Chepangs, the Hayus, the Vrahmus, the Satars and the Tharus who still live in their own cultural pockets within the confines of Nepal, are modern traces of the Austric people who are believed to be the ancient original inhabitants of Nepal. The present day Nepalese tribes of Mongoloid origin such as the Rais and Limbus, the Newars, the Gurungs and the Magars provide yet another strong proof of the antiquity of Nepal.[7] The culture and tradition of Kiranti, a people who are referred to in the ancient Sanskrit epics as having had their homelands in the Himalayan foothills, cannot be ignored in considering ancient history of Nepal.[8]

The present day place-names of the Kathmandu valley testify to the contention that Nepal is an ancient land of the Austric-Mongoloid people. The Lichchavi inscriptions discovered in the Kathmandu valley contain more than 80 per cent of the place names as of non-sanskritic origin.[9]

The religious architecture of Napal, particularly, the Stupas, such as the so-called Ashokan stupas at present-day Patan, possess "an archaic character similar to those of the Mauryan period in India."[10] This indicates that Nepal was in existence even before 4th Century B. C., for the Buddhist relic mounds of the type found in Patan

date at least 3rd century B.C.[11] The fact that Ashoka had visited Niglihava, near Kapilvastu at Tilaurakot and Lumbini of present-day Nepal in 243 B. C. and the present day Lumbini Garden in 249 B.C. in order to set up pillars lent support to the local traditions that the stupas at Patan were also built by Ashoka of the Mauryan dynasty.

However, owing to the lack of sufficient data on the ancient period of Nepalese history,tradition and culture, it is not possible to reconstruct a model of the development of the human rights prior to the Manadev I, of the Lichchavi dynasty. It is only by way of an introduction to ancient Nepal, some of the above facts have been recounted here. Much research need to go into this area of Nepalese history before the data enough for the study of human rights achievement are unearthed.

THE LICHCHAVIS

For the purpose of this study the Lichchavis are assumed to be the descendant of Lichchavi, the founder of the Lichchavi dynasty which became a dominant power of the Vrijian confederacy, with Vaisali (the modern Basrah in the Muzaffarpur district of north Bihar), as the capital and also the headquarters of the Vrijian confederacy itself. The Lichchavis figure prominently as a republican clan in north Bihar in early Buddhist and Jain literature. They are referred to by the *Manu Smriti* as Vratya Kashatriyas and Kautilya's *Arthashastra* as forming a special kind of safety and security of the forested hills of Nepal during the periods of political troubles of foreign inroads or internal disturbances in the then India.[12]

So far as the beginning of the Lichchavi rule in Nepal is concerned, historically established date is AD 464

given in the Changu Narayan inscription of Manadaev I. However on the basis of the number of his predecessors (which is 38 in all) as given by Jayadev's Lichchavi geneaology), the Lichchavis are assumed to have begun their rule in Nepal some 760 years before. In other words, the Lichchavi rule in Nepal began presumably towards the end of the third century B.C. (because 760 years AD 464 = 296 and therefore 296 B.C.).[13]

Nevertheless, for the purpose of this study the Lichchavi period is assumed to span the time from A.D. 400 (Vrisadev's rule, who was the great-grand-father of Manadev I.[14] to A.D. 733 (Jayadev II's rule).

The Lichchavi State

Territorial Limit

The present-day political boundary of Nepal came into existence in conformity with the provisions of the Sugauli Treaty of A.D. 1815 which signed the end of the Anglo-Nepalese War. There are indirect evidences to support the view that the political boundary of ancient Nepal was as big as the present-day Nepal, if not bigger.[15] These evidences indicate that the region of ancient Nepal lay between east of the present-day Indian state of Punjab and the Sutluj River and west of the present-day Indian State of Assam. Broadly, the Himalayas or the trans-Himalayan belt formed the northern boundary, while the southern boundary had touched the present-day Indian state of Bihar, particularly, the districts of Champaran, Darbhanga and Purnea. The southern boundary of Lichchavi Nepal and the northern boundary of Gupta Empire (India) were thus coterminus.[16]

No available inscriptions of the Lichchavi period mention about the political boundary of the then Nepal.

Socio-cultural Pattern

With the immigration of the Lichchavis into Nepal the process of fusion of the Austro-Mongoloid and the Indo-Aryan cultures set in creating the core of the syncretic Nepalese culture that is flourshing in Nepal even today.[17] All cultural idioms of the immigrant Aryans were put to use after they were modified to suit the indigenous socio-cultural base. The most powerful integrating force was provided by the *Dharma-sastras*, for it not only laid down rules to govern all important human situations, but also helped maintain the stability of the social order without unreasonable restriction of entry into it.[18] The characteristics of Nepalese socio-cultural life and society began to take shape during this Lichchavi period. The Sanskrit, for instance, was liberally assimilated into the Tibeto-Burmese family. Similarly, the Lichchavi rulers became ardent worshippers of classical Hindu deities without being sectarian to any particular cult. The process of liberal assimilation and synthesis went on in an essentially Buddhist-Brahminical socio-cultural matrix. In fact, this has been the most remarkable phenomenon of the cultural history of Nepal during the last two thousand years.[19]

Economic Condition

The Lichchavis introduced the idea of advanced system of agriculture, industry, and commerce. Lands were managed on scientific basis, and a system of the taxation had been adopted to raise public fund. Taxes, in fact, were, as in modern times, the main source of revenue. The quality of building materials, woollen blankets, copper wares and such other manufactured goods bear testimony to the attainment of industrial perfection.

The existence of merchants and of markets, both domestic and foreign, can be made out from various inscriptional evidences. The use of the term 'Sarthavaha' meaning the guide of the group of foreign traders indicate that the Lichchavis had maintained - commerical intercourse with other countries of foreign traders. The provision of pecuniary fine known as 'tuladanda' for committing weights and measures crimes and the use of coins such as karoapana, purna and pana etc. indicate that economy was monetized. Transportation was also well-managed and traffic rules were imposed for the control of vehicular traffic. In sum, the Lichchavis had developed an economic infrastructure of a relatively modern character.

Politico-legal Setting

Since the system of human rights, in whatever sense it may be understood in the context of a particular culture, has a direct bearing on the politico-legal system of a country. It is necessary to consider this aspect of the Lichchavian background a little bit more elaborately.

Politically, the Lichchavis were organized as a hereditary monarchy, but unlike the Gupta Emperors, the Lichchavi kings, even the most autocratic of them rarely thought of changing the political system on their own sweet will. The Lichchavian political system drew inspiration from the ideals of Vedic Kings and render themselves amenable to the checks and balances of defined democratic elements. They viewed the State as an organic whole in which its constituent elements such as the king and the people played their parts according to the rules of *dharma,* - as embodied in the *Dharmasastras* and usage and as expressed in terms of royal decrees. It was within this framework of dharmic system the king acted as the protector, preserver and promoter

of the society. The people on their part willingly participated in the governance of the country.

As *dharma* ruled supreme the Lichchavi kings and the people were bound together by the nexus of duties rather than rights. The *Dharma-sastras* prescribed protection of the people as the supreme *dharma* of the monarch as also the surrender of sovereignty by the people to the king. It implied that if the monarch failed in his or her duty, the people's *dharma* would be to depose the unfit monarch if necessary, by rebellion and assasination, or by a revolution.[20]

On the other hand, if the people failed in their *dharma*, the royal *dharma* could be enforced in the form of the law of danda with discretion and dignity. The Lichchavi monarchs were masters, but in a limited sense.[21]

It was to realize the syncretized value of *dharma* and human rights that the Lichchavi kings had instituted the organizations like *panchali, gosthi* and *sangha*. The Lichchavis had a unique experience of Vedic monarchy and of the post-vedic republican (Gana) tradition. The synthesis of ideas and ideals of the two systems developed an angularity of vision in the Lichchavis which led them to adopt such an innovative approach towards resolution of the problem of human rights development.

Dharma or the collective good was the main objective towards which the Lichchavi rulers directed their policies and programmes. And it was this idea of accomplishing the task of management of government that gave rise to the system of *panchali* as also of the system of *gosthi* and *sangha*. Quite in accord with the Hindu-Buddhist philosophy of dharmic relationship between the ruler and the ruled, the Lichchavi kings had adopted the policy of securing peace and protection of the people

as a collective whole by instituting *panchali, gosthi* and *sangha*. It needs to be emphasized here that the term human rights was not expressed in so many words in the Lichchavi Nepal, but the idea connoted by the term had found expression in the concept of *dharma* and collective good. However, this does not mean that the Lichchavi rulers were totally blind to the idea of individual rights which in the western liberal democratic standard are regarded as 'inalienable'. There are inscriptional evidences to show that the Lichchavi state did recognize such rights.[22] What is significant is that these rights were not stressed as much as the rights (duties) of the collective whole of the people.

The private individuals in the Lichchavi state did not seek a legal definition of their status and role as public persons, and still less, as political-legal power. What they sought was a guarantee of their private existence to be safe and secure in life and work - privately, in the family, in the *panchali, gosthi* and *sangha* and to be free from unjust state interference. And since *dharma* guaranteed a secure and peaceful way of life, any act of *dharma*, such as, a royal decree by a just king was not regarded as an intolerable act of royal absolutism, nor were the people treated by such a king as so many slaves[22] Since all royal actions were either directly or indirectly inspired by the fundamental tenets of *Dharmasastras* or the principles of collective good, the people, far from seeking constitutional restrictions on the royal authority, tended to co-operate and support the sovereign authority in securing their freedom of humanity within the bounds of *dharma*.

Since *dharma* was the guiding principle of Lichchavi-life the system of human rights as developed by the Lichchavis had built in moral and legal gurantees. *Dharma* set the limit to the abridgement as well as the enjoyment

of human rights as understood in the Lichchavian context. While even the most autocratic king could not think of arrogating all powers to himself and rule the country as a ruthless Pharoah, the people on their part dare not violate the injunction of *Dharma-sastras*, customs and usage in the name of equality and liberty. The royal decrees were often issued at the request of the leaders of the society, and in framing laws. the king was advised by his ministers (amatyas) and other high-ranking officials at the central level, and by the panchalis at the local level. The king, no doubt by virtue of his irresistible personality or charisma could exert tremendous influence on the policies and programmes of the state, but the polity would remain the same and *dharma* always guided him. Any king who acted capriciously and without a sense of *dharma* would be overthrown or assassinated by the people as a matter of their duty. Similarly, the people would be punished by the royal danda,if they failed in their duty (*dharma*).

In terms of the legal setting, the Lichchavi society can be characterised as a society that had laid the certainty of rules (recognition), flexibility of rules (change) and efficiency of rules (adjudication). Indeed, the Lichchavian community was not a small unit held together by ties of kingships, common sentiments or beliefs and placed in a stable environment[23] In other words, the Lichchavis had achieved a true foundation of a legal system for the establishment of a super structure of human rights order, without which, it is assumed that protection and promotion of human rights cannot take place. And, since human rights, moral or legal, are not something which one yearns for but which one sensibly expects to realise immediately, the existence of firm operative legal system is absolutely necessary for practicability of human rights.

Law-making, however, was not the normal activity

of the Lichchavian State, despite the fact that the Lichchavian society was not in an "absolute pre-legal stage". The State enforced what had already been approved by the *Dharma-sastras*, customs, usage, and articulated by the Smriticars (the one learned in the Smritis or the *Dharma-sastras*).

Law and Administration of Justice

The Lichchavi legal system was founded on the concept of law of Vedic origin and was enriched by the Vaishalian legal tradition and institutions. It reflected a modern complex character as distinguished from a simpler decentralized pre-legal form. In other words, not only the primary rules of obligations or codes of behaviour which are taken as valid according to the society's ultimate criterion of validity (*dharma*,for instance, in the case of Hindu-Buddhist society), and under which whether they wish to or not", but also the secondary rules or recognition, change and adjudication under which "human beings are conferred powers public or private, and actions for creation of or variation of,duties, "were generally obeyed and accepted as common public standard of official behaviour.[24] In the Lichchavian society the principles of *dharma* were generally obeyed as valid rules of moral obligations as also the common standard of official behaviour. A number of officials were appointed to execute such rules of law. The *Dharma-sastras*, customs and usage, royal decrees and charters provided the authoritative criteria for identifying primary rules of obligations. As there were a variety of sources of law, so also the rules of recognition were correspondingly more complex. While the law made by the sovereign could be identified by a simple reference to the royal decrees or charters, the law lasted on the principles of *dharma* could not be identified without a reference to the sources such as the *Dharma-sastras*, approved

usages, local customs, good conscience and so on. The Lichchavi state had thus achieved a union of the primary and secondary rules, and, according to the theory of Hart, it had laid the true foundation of a legal system and therefore of a human right system in the context of the development of Hindu-Buddhist polity.

From this view piont, the Lichchavi society was not in an "absolute pre-legal stage", (to borrow Hart's phrase.) It was based on a secure legal system. They had the certainty of rules (recognition), flexibility of rules (change) and efficiency of rules (adjudication).[25]

The primary rules of obligation or the regime of rules in the Lichchavian society was characterized by the embryonic form of distinction between moral and legal rules. There were some rules which were primarily maintained by threat of temporal punishment (danda) for their disobedience and violation. For instance, a person committing the crime of pancha-aparadha (quintuple crime) was liable to lose his own body and his family members all worldly possessions. And, there were some rules which were maintained by appeals to presume respect for their inviolable sanctity or the terrors of the spiritual anathema and torments and remorse. For instance, while making a gift of the Jaipallika village to his sister Jai Sundari, King Basantadeva appealed to the moral sense of guilt by warning that any king of the Lichchavi dynasty or any person who would deprive others of their own property shall go to Hell as grubs of human waste. There are a number of Lichchavi inscriptions which refer to this kind of punishment.[26]

So, laws in the Lichchavi State were not made consciously as in modern times by the process of legislation. While *dharma*, or the sum total of the idea about life, guided the Lichchavis even in the administration of law

and justice, it was the *Dharma-sastras*, customs, good conscience and royal decrees that provided for them the priciples of law and legal institutions. The types of offences and punishments and the mode of legal actions to be taken in a court of justice were determined by the *Dharma-sastras*.[27]

Among the *Dharma-sastras*, the Manava *Dharma-sastra* or *Manu-smriti*, the oldest *dharma-sastra* was held in greatest respect. The Lichchavis laid great stress on the administration of law and justice according to *dharma* in order to ensure protection, and promotion of human rights. A brief outline of the Lichchavi administrative system is delineated in the following paragraphs, before the discourse on the problems and processes of human rights development in the Lichchavi period.

Lichchavian Administrative System

Physical Structure

For the purpose of administration of law and justice, the Lichchavi state had been territorially divided into two categories, viz, the centrally administered territory and the provincial territory.

The centrally administered territory was sub-divided into a number of *visayas* (districts) and each visaya was constituted by a number of *drangas* (well-developed areas with commercial centres covering more than one village) and of or *talas* (a group of settlements on flat fertile land), and *gramas* (villages). A *dranga* or a *tala* was physically bigger than a *grama*. However, the status of a *dranga*, a *tala* and a *grama*, in the administrative set-up is not clear. It is assumed a *grama* constituted the lowest unit of local administrative hierarchy.'

The provincial territory, on the other hand, was

constituted by a number of erstwhile feudatories or neighbouring principalities.[28]

Power Structure

While the sovereign was at the apex of the Lichchavi power structure, as is always the case with a monarchical state, the Crown Prince, or the collateral ruler or the deputy ruler shared powers with the ruling monarch. The king headed the supreme royal body called *Antarasana Karan* (Paramasana Karan). This body functioned as a Privy Council having both executive and judicial powers of overall supervisory nature. It also functioned as the chief controlling authority of the Panchas[29]

The next in order of hierarchy were the *amatyas* or ministers who aided and advised the king internally. They were however not ministers in the modern sense of the term as having popular base. They were appointed by the king himself.[30] Within the Lichchavi state in its broadest sense, the Samantas exercised sovereign powers within their territories under the general guidance of the ruling Lichchavi king.[31] The next in authority were the officers called Mahapratihara, Pratihara (Dauwarika), Sarvadandanayaka - Pratihara, Sarvadandanayaka, Dandanayaka on the civil administration side and Bhat, Bhatta, Bhattanayak, Baladhyksha Mahabaladhyksha on the military administration side.[32]

The powers and functions of Mahapratihara, Pratihara and Dauwarika can be related to these of modern aide-de-camp, private secretary and royal judicial officer. The Mahapratihara, being the chief of this class of officers, had easy access to the royal palace and had to act as a royal confidant and attendant. Pratihara or dauwarika acted either as a private secretary or as

a liaison officer in relation to the village units (Sathana dauwarika). Sarvadandanayaka-pratihara, sarvadandanayaka and dandanayaka were entrusted with the duties of maintiaining law and order in the country. It is possible that sarvadandanayaka-pratihara maintained close liaison with the royal palace in matters of police administration, while sarvadandanayaka functioned as chief executive of the day to day police administration, and dandanayaka as chief police officers in the field.

While Bhatt and Bhatta represented two types of infantry, Bhattanayaka was the captain in terms of moderm army ranking. Baladhyaksha can be likened to the rank of the commanders and Mahabaladhyaksha to that of the Commander-in-Chief.[33]

The government in those days was concerned only with the matters relating to home affairs, finance, law and justice, and foreign affairs. In fact, this concept of government prevailed in Nepal till the end of the Rana regime in 1950[34]

Central Offices

To carry out the day to day administrative function at the central government level, a number of offices and/ or courts of law known as *adhikarans* were established.[35] The powers and functions of these offices were determined by the king himself. The Royal Palace was the headquarters of these offices, and all these officers were actually located in the Royal Palace premises.[36]

Among these central government offices, the most important were the offices of *Kuthera, Sulli, Lingaval* and *Mapchoke*[37] *Kuthera adhikaraya* was responsible for the collection of government dues, and all disputes relating

to the land and fiscal administration was the responsibility of this office.[38]

Sulli Adhikarana

Sulli adhikarana was entrusted with the duties of dealing with Five Crimes (pancha-aparadha) and awarding punishments to the culprits of these crimes. The Five Crimes included, theft, adultery murder and treason.[39]

Lingavala Adhikarana

Lingavala adhikarana was in charge of transport and water supply management, and disputes relating to these matters were decided by this office.[40]

Mapchowk Adhikarana

It was responsible for matters relating to the marital relations of the citizen.[41]

Bhatta Adhikarana

The responsibility of this office is not clear from the epigraphic evidences.[42] Some historians assume that this office dealt with the matters relating to the violation of *varna-vyavastha* codes, while others assign it the responsibility in relation to the military affairs and espionage.

Judicial Administration

The structure of judicial administration at the central level confirmed more or less to that of the general administration. It was structured from the village level Panchali court upward to the highest level of Royal Palace court known as Antarashana Karan which was structured from the village level Panchali court upward

to the highest level of Royal Palace court known as Antarashana Karan which was presided over by the king himself.[43]

Magistrates or judges as understood in the modern judicial administrative sense did not exist in the Lichchavi period, but epigraphic evidences do suggest that there were officers who dealt with legal cases, both of civil and criminal natures.[44]

At the central level of judiciary, the five *adhikarans* exercised judicial powers in their respective areas of duties and responsibilities. These departments served as the lowest courts of original jurisdiction both in civil and criminal cases.[45]

These departments were debarred from exercising jurisdiction in respect of these village units of Panchalis which by royal decree or charter were granted self-rule. And in certain specified cases appeals from such Panchali court lie directly to the highest court of appeal, that is the Antarashana Karan.[46]

Any legal proceedings which fell under a Panchali territorial jurisdiction were liable to be decided by such a Panchali court in its original jurisdiction and those cases which could not be decided by it conclusively were referred to the highest court of appeal (Antarashana) not to the adhikarans. The court was also empowered to impose fines on the offender according to law.[47]

A Panchali court was probably constituted by permanent Panchas or Panchalikas and not by the heads of the families or clans.[48] No definite idea about the provincial administrative system has yet been formed owing to the lack of historical data.

Local Administration

At the local level each visaya was put under a visayapati (district commissioner directly responsible to the king or the Central Government). The visayapati used to run the administration with the assistance of subordinate officers called 'tadayoktak.'[49] The govenment levies were raised by custom officers called 'saualkik'[50] and the district security office was headed by 'gaulmik'[51] 'Chat-bhat'[52] para-military officers were responsible for collection of government tents.

Those officers who were put in charge of the district administration at the central government level were simply called 'adhikrit' (officer).[53] The officers were paid salaries not in cash but in kind. They were allocated a certain piece of land, in lieu of their service to the state.

Although inscriptional evidences are not available as to how the administration of a *dranga* or a *tala* or a *kotta* was run, it is assumed that a visyapati,[54] being the represntative of the central government, was in overall charge of these units of adminitration as also of the grama. A *dranga* most probably was constituted by a well-developed area or a township with a well fortified commerical centre.[55] A *tala* was constituted by the low, fertile pieces of land in the valley with a number of settlements. A *tala* was represented by a 'talaswami' who enjoyed the status almost equivalent of a visyapati, although a *tala* was not a unit comparable to a visaya.[56] *Kotta* is yet another unit of local administration which was constituted by a fort in a strategic place within a forested area and operated as a security outpost a police-station or a forest warden station.[57]

The status of a *dranga,* a *tala* and a *kotta* in the local administrative hisrarchy is not very clear. It is assumed

that like a *grama,* they also constituted the lowest rungs of the Lichchavi administrative set-up.

Panchali system

A *grama* was placed under the territorial and administrative jurisdiction of a *panchali*[58] The term *panchali* connoted the meaning of a village territory as well as a village assembly; and, similarly, the term panchalika meant the members of a village assembly as well as the heads of the families living with one village. A meeting of the permanent members of a panchali was called *pancha vela* so also the convention of all heads of families was called *pancha vela*.[59]

A *panchali* was organized according to rules inscribed on copper plates; and the rules were laid down by the sovereign authority in accordance with the injunctions of *Dharma-sastras,* customs and usages and good con-science.[60] Membership of a *panchali* was open to all, but if rules of a particiular *panchali* allowed, the king could nominate some of its members. The first among the equal panchas was called 'pradhan'[61] ..Available epi-graphic evidences do not indicate the mode of election of panchas if elections were held at all; but, they provided us with the nature of power and function of a *panchali*.[62] A *Panchali* was empowered, firstly, to deal with all administrative matters falling within its jurisdiction, secondly, to settle all disputes including legal cases and to award punishments in accordance with the prescriptions of the *Dharma-sastras;* thirdly, to tackle and resolve the national crises like famine of internal dimension; fourthly, to construct, maintain and improve irrigation and drinking water systems housing facilities, temples and shrines; and, lastly, to promote all public welfare and cultural activities.[63]

Since most of the national properties or services were created as royal benefactions, a *panchali's* duty (*dharma*) was only to preserve or maintain these goods and services which fell within its jurisdiction.

The system of *panchali* provided a machinery for popular participation in the administration of the country, and in course of time, it became so dynamic that a progression towards local independence of a village or a *dranga* gained momentum, and by the time of later Lichchavi rulers, many panchalis had won self-rule, that is to say, they were freed from the control of central authorities, whatsoever it may be.[64] This aspect of the development of the *panchali* system is very significant from the view point of human rights development in ancient Nepal, and it will be dealt with in the sequel.

Gosthi

While a panchali was entrusted with the management of local government in the collective interest of a village, a *gosthi* was a non-governmental organization run on a co-operative basis for the managenent of charitable or religious institutions as well as secular matters like health and education.[65] Since the government in those days was not concerned with health and education of the populace, the institution of *gosthi* had a unique role to play in the field of socio-economic human rights. The government used to patronize a *gosthi*, mainly for this reason. A *gosthi* could be a family trust or a public trust, and could be formed to provide a specific service to the community, such as, drinking water supply, transportation service.[66]

It is not clear from available evidence whether or not a *Gosthi* was authorized to deal with judicial matters or legal cases, and to award punishments.

Sangha

The institution of *Sangha* can be regarded at least in its operational aspects as a religious counterpart of secular *gosthi*. While the *gosthis* were organized for the collective good of ordinary lay people, the *Sanghas* were organized for the welfare of Buddhist monks and nuns living in Viharas or Saivait Vaisnavait communities. Both the institutions however operated at the non-governmental or semi-governmental levels with the main aim of achieving freedom and justice in accordance with the principles of *dharma*. Plenty of references of the *Sangha* have been found in the Lichchavi inscriptions. The religious communities of Saivait and vaisnavait sects were organized in the form of *Sanghas*. Similarly every Vihar used to have one *Sangha*, one for the Bhikshus and the other for the Nuns, Such a *Sangha* also could form a guthi to run its financial affairs and the like, and accept donations from Lings and other munificient persons and institutions. Like the *panchalis* and *gosthis*, the *Sanghas* too were entrusted with certain duties to deal with local administrative matters in accordance with the principle of *dharma*.[67] The *Sanghas* were granted right to levy tax, impose fines and decide legal cases in the villages under their jurisdiction.[68] The legal cases which could not be decided by the *Sangha* court were referred to Paramasana (royal court) directly. The cases, for instance, relating to Panch-aparadh which involved death sentence or imprisonment were transferred to the royal court.[69]

Provincial Administration

Each province was virtually placed under the control of a Samanta (governor).[70] Not much is revealed by the inscriptional evidence about the system of provincial administration; however, it is assumed that a Samanta

held office at the ruling monarch's pleasure and tacit approval of the central authorities. The title of Samanta or Mahasamanta was conferred by the King on his favourite persons. A Samanta was guided by the King in policy matters. He had to abide by the law of the land, and to deposit with the royal treasury a portion of the taxes raised by him from his province.[71]

Inscriptional evidence shows that the Samantas were obliged to pay tribute to the king; but, if opportunity arose owing to the weakness of the central authority,they would take advantage of it to severe ties with the central authority and would carve out independent states for themselves.[72] This also had a serious implications for the human rights situation in the Lichchavi pariod, for some of the Samantas, after liberating themselves from the yoke of the central authorities, tended to become despotic.

Conlusion

Three important points stand out from this discourse, which have a vital bearing on the development of human rights in the Lichchavi period. The Lichchavi state was dharmic and was guided by the code of laws such as the Munu-smrities. Therefore, the Lichchavi state was not a theocratic state. The Supremacy of *dharma* in the Lichchavi state however cannot be interpreted to mean the supremacy of Hinduism or Buddhism for *Dharma* has a connotation wider than that of a religion.

Secondly, although collectivity rather than individual interest determined the nature of Lichchavian politico-legal set-up, the Lichchavi State, was by no means guided by the collectivist theory of Marxian-Leninist variety. The Hindu-Buddhist collectivity does not assume the existence of a political party to which unquestionable

allegiance would be owed by the people, nor the philosophy of historical determinism has influenced it. The Hindu-Buddhist collectivity owes allegiance to *dharma,* in its comprehensive sense.

Thirdly, although the roots of the present-day Nepalese society reach deeper than the Lichchavian society, it was during the Lichchavi period, the complex and rich symbiotic culture of Hindu-Buddhistic origin, characterised by the principles of tolerance and co-existence, by the attitudes of acceptance and assimilation by liberalism, adaptability, optimism and amicability, and, above all, by humanity, had developed creating a new meaning of *dharma*.

It is against this background condition of the dharmic society, the problems and processes of human rights development are worked out in the following chapter.

Notes

1. Surya Bikram Gewali, 'Political History,' *Nepal in Perspective*, Kathmandu; CEDA,1973, pp 47 - 48. Jagadish Chandra Regmi, *Prachin Nepal ko Rajnitik Itihas*', Kathmandu; Royal Nepal Academy, 1978. pp. 2, 30, 67- 68, 99, 211 - 212. Prayag Raj Sharma,' Culture and Religion; Its Historical Background',; *Nepal in Perspective*, Kathmandu; CEDA,1973a, pp 68 - 69. Prayag Raj Sharma, *'Art and Architecture'*, 1973b, pp. 79 - 81.

2. V.M. Apte, *Political and Legal Institutions, the Vedic Age*, London; George Allen, Unwin 1952, p. 357.

3. A.S. Altekar, *State and Government in Ancient India*, Calcutta, 1958, p. 41; N. C. Bandopadhya, *The Development of Hindu Polity and Political Theories*, Calcutta, 1927, p. 41.

4.Jagadish Chandra Regmi, *Licchchavi Sanskriti,* Kathmandu; Ratna Pustak Bhandar, Baishakh 2026 (1970), pp. 409 - 413; also see Jagadish Chandra Regmi, *Prachin Nepal ko Rajnaitik Itihash,* Kathmandu; Royal Nepal Academy. B.S.2035 (1978).pp 197 - 198. Dhanvajra Vajracharya, *Lichchavi Kal ka Abhilekh,* Kathmandu, Tribhuvan University, B.S. Asad 2030 (1978), pp. 72 - 73; 199, 140, 163 - 164, 174, 278, 297 - 299, 312, 333 - 335, 480, 484, 497 - 506 (Inscriptions Nos 133 & 134) 535, 563 - 577 (Inscription Nos. 149 & 150) Dhanvajra Vajracharya & Tek Bahadur Shrestha, *Panchali Shasana-Paddati Ko Aitihashik Vivechana,* Kathmandu; Tribhuvan University, B.S 2035 Chaitra (1979) pp. 24 - 28 and 104 - 105. Hit Narayan Jha, *The Lichchavis,* Varanasi, Chow Khamba Publication; 1970, p. 213.

5. Dhanvajra Vajracharya, ibid, pp. 1-3. Jagadish Chandra Regmi, ibid., p.2

6. Baburam Acharya, 'Napal, Newar and the Newari Language', *Nepal Sanskritik Parishad Patrika,* Vol.I, No.2 (1952), p.3; see also Baburam Acharya, 'Nepal ko Prachin Mul-Sanskriti', *Sanskriti,* Vol. 1, No. 1 (1957) pp. 3 - 5. and Baburam Acharya, 'A Brief Account of Ancient and Medieval Nepal, *Nepal: A Conspectus,* Kathmandu, 1977, p. 8; Kamal P. Malla and Pashupati Shumshere J.B.Rana, *Nepal in Perspective*: An Introduction, 'Nepal in Perspective, Kathmandu: CEDA. 1973, pp.-4-5.

7. Baburam Acharya, ibid; ibid; ibid;. Kamal P. Malla and Pashupati Shumshere J.B. Rana, ibid, see also Surya Bikram Gewali, op. cit p. 47. Prayag Raj Sharma, op. cit., pp. 67 - 68. Kamal P. Malla, 'Language', *Nepal in Perspective,* Kathmandu, CEDA. 1973, p. 101. For ancient references about original mongoloid inhabitants of Nepal see Bal Chandra, *Nepal ko Aitihashik Rup-Rekha,* Varanasi, 1951, pp.34

8. Baburam Acharya, ibid 1957 p. 4; see also Prayag Raj Sharma ibid., p. 67

9. Kamal P. Malla, op. cti. p.

10. Prayag Raj Sharma, op. cit. 1973 b, p. 92. For the contrary view see Baburam Acharya, op. cit 1957 p. 7; "It is wrong to say that Ashoka had built the Buddhist Vihar, which is known as 'Yumpi', and is located at present day Patan (Lalitpur District). It was impossible for Ashoka to built the stupa. Since the stupas built by Asoka in India were in existence one hundred years before any kind of stupas came into existence and in those days the art of sculpturing the image of Buddha and Bodhisattavas was not known. It cannot be possible that Ashoka had built the Patan stupas which contain the images of Buddha and Bodhisattavas. "The author is of the view relatively cultured Nepara Community of the Kiratas in response to the preachings of the '*dharma-duta*' (peace-messanger) of Ashoka, named Majjihim and other.

11. Prayag Raj Sharma, ibid,; see also Kamal P. Malla and Pashupati Shumshere J. B. Rana, op. cit., pp. 6-7. But not the contrary view held by Baburam Acharya (ibid p.7)

12. R. C. Majumdar, "Northern Indian. After the Break-up of the Gupta Empire" (sixth century A.D.), in *The Classical Age*, Bombay; Bharatiya Vidya Bhawan, 1954, p. 82.

13. Jagadish Chandra Regmi, op. cit. p. 30.

14. Dhanavajra Vajracharya, *Lichchavi Kal ka Abhilekha*, Kathmandu; Centre for Nepal and Asian Studies, 1973, pp. 2 - 3. Dr. Jagadish Chandra Regmi. *Prachin Nepal ko Rajnaitik Itihash*, Kathmandu; Royal Nepal Academy, 1978, pp. 2.

15.Dhanavajra Vajracharya, *Lichchavi Kal Ka*

Abhilekh, Kathmandu; Centre for Nepal and Asian Studies, 1973, pp. 27 - 28.

16. See *Atharvaparishista*, Kurma Vibhaga; and J.F. Fleet, *Corpua Inscription Indicarum*. Vol. III, p 8, and Dr.Jagdish Chandra Regmi, *Prachin Nepal Ko Rajnaitika Itihas*, Kathmandu: Royal Nepal Academy, B.S. 2035 (1979), pp. 181 - 184: The first ancient Indian works to mention the name of Nepal was Atharvvaparisista, Kurma Bibhaga.

Samudragupta's Prayag Pillar inscription:- Quoted in J.F.Fleet, *Corpus Inscriptionum indicarum*, Vol. III, p. 8, L 22.

Referring to Changunarayan inscription of Manadeva, R.C. Majundar (*The Classsical Age*, Bombay; Bharatiya Vidya Bhawan, 1954, p. 83) observes: "In the first place it shows that even before the time of Manadeva the Lichchavi power was not confined to the Nepal valley proper, i.e. the region around Kathmandu in the Bagmati valley, but had spread to the valley of the Sapta-Kusi rivers on the east and Sapta-Gandaki rivers on the west . "

Dhanvajra Vajracharya (ibid. p. 28) observes that the Manadev inscriptions show that Nepal's territorial limit included the Kosi basin on the east and the Gandaki basin on the west. Referring to other evidences such as the unearthing of 'mananka' in the west at Baglung (Nepal) and of the earthen moulds bearing the later Lichchavi scripts in Jumla (Nepal). Dhanavajra concludes that Nepal was almost as big as the present day Nepal in terms of physical dimension. Jagadish Chandra Regmi (ibid. pp. 59 - 64) observes: the terms 'purva desh' in the Changunarayan inscriptions cannot be interpreted to mean only the area covered by the Kosi basin; on the basis of its authoritative interpretation in the classical work of history, geography and

literature, as well as on the inscriptional evidence of Samudra Gupta, the author concludes the term 'purva desh' means the territory extending on the east upto the present-day Assam. About the western boundary of Lichchavi Nepal, the author argues that it extended upto some area beyond the Gandaki that is nearly upto Malla puri.

17. It may be of interest to note here some of the factors of, and the process by which, symbiotic culture developed in Nepal. Although ancient Nepal (valley) emerges from a sea of myths and legends into a world of recorded history only in the fifth century A.D. yet there are valid reasons to support the view that "the matrix of Nepalese culture in the valley must have been laid by the Kiratas, a group of indigenous Nepalese of Mongoloid stock who lived in Nepal valley before the Aryan inroads. (see, Prayag Raj Sharma ibid pp. 68-69. 1973 a. pp. 68-69). Prayag Raj Sharma(ibid, p. 77) observes: "History shows that the core of Nepalese culture was formed by the Nomadic Aryans coming north from the Indo-Gangetic plains and meeting the different groups of Mongoloids in the latter's habitat in the Himalayan foothills. We do not know the significance of this fusion in all aspects yet, but the two regions where it produced definite results were the Kathmandu Valley and the hills of far western Nepal. "Pointing out some of the factors which contributed to the fusion of cultures in Nepal, Kamal P. Malla ('Introduction', *Nepal: A Conspectus*, Kathmandu; 1977, pp. ii - iii). observes: "Because of the eclectic and liberal attitude of the Nepalese royal families (the Lichchavi Kings 2nd century A. D. - A.D. 879; the Thakuri Kings A.D. 880 - A.D. 1199; the Malla Kings A.D. 1200 - A.D. 1768; and the Shah Kings A.D. 1769) a complex and rich syncretic religious culture developed in Nepal . . . Apart from the liberalism of the Nepalese ruling dynasties, the catalytic factor in the working of

cultural synthesis was immigration. Nearly all the political religious and cultural elites of Nepal during the formative periods of its history had been the immigrants who were gradually absorbed into the matrix of local society and culture."

Dor Bahadur Bista ('Hindu Kingdom and Its Social Aspect' in *Nepal; A Conspectus,* Kathmandu; 1977 p. 22) observes: "There are (in the present-day Nepal) . . . more than thirtyfive different speech communities, four major religious faiths, dozens of tribal cultural groups and three major racial combinations who have all lived in perfect harmony without a single major outstanding problem and without ever coming to violent antagonism. This, certainly, would not have been possible without tolerance, amicability and a feeling of humanity in the people. They have fused and integrated all the ethnic and cultural differences into one predominant system . . ."

18. Op. cit., pp. 71-73.

19. *Nepal in Perspective,* pp. 8-10, *Nepal: A Conspectus,* pp. iii.

20. On the authority of the Sukra Niti Prof. Altekar *(State and Government in Ancient India),* observes: "The recognition of the subjects, right to depose or kill a tyrant no doubt show that Ancient Indians regarded sovereignty as ultimately residing in people. It could, however, be exercised only by a popular uprising and not through any peaceful means. It was thus not a constitutional but rather an extra-constitutional right. It was a remedy very difficult to adopt."

21. There is a Jataka tale which serves to illustrate this point. The story is about a beautiful queen who wanted to have absolute powers over her subjects. The King could not oblige her. So he

told her: "My good lady, to me the inhabitants of the whole realm are no bodies; I am not their master (they are their own masters). I am master-only of those who offend against the rulers (laws) and do what is unlawful. For this reason I am unable to give you mastery or rule over the whole realm.

The emphasis on duty (*dharma*) by the oriental society is remarkably illustrated by the Japanese society. In Tokugawa Japan, the 'pervasive imperative' was to fulfil one's duties according to one's place in the elaborate status hierarchy, and not to recognize the rights of the individual. In fact, the Japanese people had no word for the term 'right' until the mid-nineteenth century. See, Richard P. Claude, op. cit. p. 102.

22. The available epigraphic records of King Manadeva (A.D. c. 464 - 505) and his successors show that the Lichchavi rulers are aware of the value of individual rights and gave recognition to some of these rights. The Lichchavis for instance, enjoyed freedom of movement and trade (Vajrachayya, op. cit., Inscriptions Nos. 133 and 134); They also enjoyed freedom of worship and thought (ibid, ibid, pp. 30 & 42 - 43. Inscription No. 77) freedom to hold public assembly (ibid, ibid, p. 327) and Vajracharya and Shrestha, op. cit. p. 71); women enjoyed right of remarriage (Vajracharya, op. cit. p. 6). It must be noted here that these rights were recognized so far as they were reasonable within the restrictions imposed by *Dharma-sashatras*, or the royal decrees made in accordance with the principles of *Dharma-shastras.*

23. Vajracharya and Shrestha, op. cit. pp. 23 - 29.

24. H.L.A. Hart (ibid, pp. 78,89 & 91) observed: "under rules of the one type, which may well be considered the basic or primary type, human beings

are required to do or abstain from certain actions, whether they wish to or not. Rules of the other type are in a sense parasite upon or secondary to the first. This type unlike the first one which imposes duties-confers powers. Most of the features of law can best be rendered clear if these two types of rule and the interplay between them are understood."

25. See Vajracharya, ibid, pp. 91, 235, 435 and 516.

26. P. V. Kane, *History of Dharmashastra*, Vol II, Pt II, p. 965. (Vajracharya, op.cit., ibid, Inscription No 2 (Changu Narayan than inscription)

See also Vajracharya, Inscription No. 106 (Malatar Inscription)

27.Vajracharya, ibid, ibid, p. 276.

Vajracharya and Shrestha, *'Panchali (Panchayat) Sasan Paddati Ko Itihashik Vive-chana'*, Kathmandu: Centre For Nepal and Asian Studies, 1979, pp. 20 - 21; pp. 33 - 36; and pp. 48 - 49. See also, Dr. Hit Narayan Jha, *The Lichchavis (of Vaisali)*, Varanasi: Chowkhamba Publication, 1970 pp. 218; Jagadish Chandra Regmi, *Lichchavi Sanskriti*, Kathmandu - Ratna Pustak Bhandar, 1970, 381,ibid, pp.199 - 200 and pp. 207 - 210.

28. Jagadish Chandra Regmi, Lichchavi Sanskriti; Kathmandu: Ratna Pustak, 1970, pp.363 - 382 and 409.

29. Vajracharya and Shrestha, ibid, pp. 23, and 30 - 33. and Vajracharya, ibid, p. 545 (Inscription No. 146). Jagadish Chandra Regmi ibid, pp. 197 - 198. For a detailed discussion on Antarashana and Paramashana see Dhanavajra ibid, ibid, ibid pp. 360 - 362. With a reference to the Inscription No. 85 of Ansuvarma. According to Lallanji Gopal and

Thakur Prasad Verma (*Studies in the History and Culture of Nepal* , Varanasi: Bharati Prakashan, 1977, p. 29) 'Antarasana literally means 'inner seat'. It most likely refers to the throne and the officers immediately connected with the king. It seems to have functioned as the highest tribune. The term 'paramasana' probably signified the same thing as 'antarasana' D. R. Regmi (*Ancient Nepal,* Calcutta: 1969, pp. 256 - 60) is of the opinion that the terms refer to procedures to be followed by kings when the self-governing units could not themselves decide issues.

30. Vajracharya and Shrestha ibid, p. 24 and pp. 36 - 38; Dhanavajra Vajracharya, ibid p. 5-9; see also Jagadish Chandra Regmi ibid. p. 206 and Dr. Hit Narayan Jha, ibid p. 209

31. Vajracharya and Shrestha ibid, pp. 33-36; Regmi ibid, p199.

32. Vajracharya and Shrestha, ibid pp. 39 - 48, see also Regmi ibid, p. 207 and Hit Narayan Jha, ibid, pp. 209 - 211 and pp. 214 - 215.

33. Regmi, ibid, pp. 206; Dhanavajra is of the view that revenue collector at the village level was called 'Chatbhat' who used to be a kind of army officer. (see Vajracharya and Shrestha, ibid, p. 50).

34. Vajracharya and Shrestha, ibid pp. 50 - 51 and pp. 57 - 58.

35. Regmi, ibid, p. 384; Jha ibid, p. 218; Vajracharya ibid, pp. 124 and 130 - 131, 247 - 248 Vajracharya and Shrestha,ibid, pp. 51 and 57 - 58. Vajracharya ibid, Inscription No. 25 (Basantadeva's Jaisideval inscription). p. 122 - 123 and pp. 124 - 131; see also Vajracharya & Shrestha, ibid pp. 50 - 51 pp. 57 - 58;

36. Vajracharya and Shrestha, ibid p. 30.

37. Vajracharya, ibid, Inscription No. 25 and pp. 124 - 131. Vajracharya and Shrestha, ibid, pp. 50 - 59. The authors say that powers and responsibilities were all officially spelled out in a specific order. Gopal and Verma (op. cit. p. 28) are of the view that the term originally means' magistracy and court of Justice. These four adhikaranas were four administrative departments with specific but separate functions. The authors infer from two references made in the Gyaneshwar Fragmentary Inscription (Abhilekha - Sangraha, Part V, p. 16) about purvadhikaran viz, that it was connected with the daksina rajakala and that it consisted of three karanas, that adhikarnas had a superior jurisdiction being divided into a number of departments (Karanas). The authors are of the opinion that the duties of the adhikaranas were sometimes divided according to regions, as indicated by the terms 'pascimadhikarana' and 'purvadhikarna'. See also Regmi (1970) ibid, pp. 384 - 395.

38. Vajracharya and Shrestha, ibid, pp. 51 - 53 & 77 -78. See also Vajracharya, ibid, Inscription No. 25, pp. 122 - 127,Regmi, ibid, pp. 384 - 386, Jha, op cit., p. 218.

39. Regmi, ibid, pp. 386 - 387; Vajracharya, ibid, p. 129, Vajracharya and Shrestha, ibid pp. 53 - 54.

40. Regmi, ibid, p. 390; Vajracharya, ibid, p. 129, Vajracharya and Shrestha, ibid, p. 54.

41. Regmi, ibid pp. 387 - 389; Vajracharya, ibid, pp. 129 - 130. Vajracharya and Shrestha, ibid p. 54.

42. Regmi, ibid, p. 389; Jha, op. cit, p, p. 218 Vajracharya, ibid, p. 299; Vajracharya and Shrestha, ibid, p. 56-57.

43. Regmi, ibid, pp. 361 - 362, pp. 409 - 413; Jha ibid pp. 214 - 217; Vajracharya, ibid, pp. 563

- 571(Inscription Nos 149 and 150).

44. Regmi, ibid, pp. 402 - 407, Jha, ibid, pp. 211 and 214 - 215 Vajracharya, ibid, pp. 115 - 119 and 571 - 572; Vajracharya and Shrestha, ibid, pp. 40 - 45.

45. Regmi, ibid, pp. 412 - 413; Vajracharya, pp. 127 - 131; Vajracharya and Shrestha ibid, pp. 53 - 54 and 57 - 58.

46. Regmi, ibid, pp. 361 - 362; Vajracharya, ibid pp. 360 - 363; Vajracharya and Shrestha, ibid, pp 30 - 32.

The Lichchavis had devised some specific procedures to be followed in the court of law by those who sought legal remedy for injustice.

For instance, procedure to be adopted in preferring an appeal to the highest court of appeal(Antarashana) was that the applicant had to make an application to the king through the office of Pratihara or Dauvarika, Pratihara, received the application with due formality, recorded it in appropriate register, put it up to the king, assisted him in its hearing and disposal procedings. The case had to be disposed of within one month of the application for revision or review of the case. Appeals lay to the highest court of appeal not only against the decision of the lower courts but also when a lower court failed to arrive at a judgement. (See, D.R. Regmi, op. cit. p. 256 - 260, Regmi, ibid, pp. 362, 412 - 413, Jha, ibid pp. 214 - 215, Vajracharya, ibid, p. 358, 360 - 362, 497, 570, Vajracharya and Shrestha, ibid pp. 30 - 31, 65 and 98 - 99.)

47. Jha, ibid, p. 221, Vajracharya, ibid, pp. 378 - 330, Vajracharya and Shrestha, ibid, pp.75 and p. 78.

48. Regmi, ibid, pp. 417 - 418, Vajracharya, ibid, pp. 327 -328, Vajrcharya and Shrestha, ibid, pp. 68 - 72. Gopal and Verma (op. cit., pp. 21 - 22) observed: "We do not know the exact nature of the constitution of the panchali, the number of members in it and the manner in which they were elected, if at all they had an elected position."

49. Vajracharya, ibid, p. 313, Vajracharya and Shrestha, ibid, p. 49, see also Regmi J. (1978) ibid. 182 - 183.

50. idem; idem

51. idem; idem

52. ibid, pp. 91 - 101. ibid, p. 50.

53. ibid, p. 248, idem

54. ibid, p. 313; ibid, pp. 48 - 49

55. ibid, pp. 218, 327

56. Regmi, J, ibid, pp. 371 - 373; Regmi J. (1978), ibid, p. 182 - 183 Vajracharya, ibid, pp. 194 - 197; see also the author's article in *Purnima*, No. 10, Kathmandu; Itihas Sansodhan Mandal, B.S. 2023, pp. 11 - 13.

57. Regmi J. ibid, pp. 377 - 380; Jha; ibid, p. 197; Vajracharya, ibid, p. 265;

58. Regmi D. op. cit., p. 252. Regmi J. ibid, pp. 414 - 421; Jha, ibid, pp. 219 - 221; U.N.Sinha, "The Genesis of Political Institutions in Nepal, *Cultural Heritage of Nepal*, (Allahabad: 1072), pp. 83 - 87, 89 - 90. Lallanji Gopal and Thakur Prasad Verma ('Panchali in the Inscriptions of the Lichchavi of Nepal' in *Studies in the History and Culture of Nepal.* Varanasi: Bharati Prakashan, 1977, pp. 13 - 30) have discussed the origin, nature and functions of Panchali with reference to the Lichchavi inscriptions in a fairly comprehensive manner. The au-

thors suggest that the term panchali is the feminine form of panchala and it signified an association of five guilds (carpenter, weaver, barber, washerman and shoe-maker) useful to the social life in a village economy. They also suggest that panchalis or panchalikas of the Lichchavi inscriptions were meant to arrange similar useful services to the religious institutions with which they were associated. Vajracharya (ibid, pp. 326 - 331) has similarly dealt with the concept of Panchali with a special references to the Lichchavi inscription. Vajracharya and Shrestha (ibid, pp. 60 - 106) have provided much more comprehensive discussion of the term as well the philosophical function and structure of panchali and its evolution through the ancient period of the Lichchavi rule. See also Regmi J. (1978), p. 210.

59. U.N. Sinha, ibid, pp. 84 - 85, Vajracharya, ibid, p. 327 Vajracharya and Shrestha ibid p. 71.

60. Regmi J. ibid, pp. 417, U. N. Sinha, ibid, pp. 78 - 79; Gopal and Verma, op. cit., pp. 17 - 22; Vajracharya, ibid, pp. 327 - 328, 477; Vajracharya and Shrestha, ibid pp. 69 - 70. 97 - 98.

61. Regmi J. ibid p. 419 - 420, Jha, op. cit. pp. 219 - 220, U. N. Sinha, ibid. pp. 83 - 85, Gopal and Verma, ibid, p. 22. Vajracharya, ibid p. 328, Vajracharya and Shrestha, ibid, p. 70 and 76.

62. Regmi J. ibid p. 417, Jha, ibid, Gopal and Verma, ibid, Vajracharya, ibid. p. 327, Vajracharya and Shrestha p. 71.

63. Regmi, J. ibid, p. 416 - 417, Jha, ibid, pp. 220 0 221, Gopal and Verma, ibid, pp. 17 - 21 Vajracharya, ibid, pp. 461 - 462, Vajracharya and Shrestha, ibid, pp. 76 - 106, passim.

64. Regmi J. ibid, pp. 415-416, 418; Jha, ibid pp. 220-221; Gopal and Verma, pp. 20-27 Vajracharya,

ibid pp. 461-462, Vajracharya and Shrestha, ibid, pp. passim.

65. Regmi J. ibid, pp. 335 - 336; Jha, ibid pp.222 - 223, U.N. Sinha, ibid. pp. 86 - 89; Gopal and Verma, ibid. pp. 6 and 17, Vajracharya, ibid. pp. 284 - 289; Vajracharya and Shrestha, ibid p. 88.

66. Regmi J. ibid, pp. 336 - 339; Jha ibid p. 222; U. N. Sinha p. 88; Vajracharya, ibid p. 284 - 287; Vajracharya and Shrestha, ibid, p. 88.

67. Regmi J. op. cit. pp. 263, 293, 292, 308 - 309; 336 - 339; Vajracharya op. cit. pp. 4, 390, 484, 496 - 505, Vajracharya and Shrestha, op. cit. pp. 98 - 99.

68. Regmi J. op. cit. p. 310; Vajracharya, op. cit. p. 504; Vajracharya and Shrestha, op. cit. pp. 98.

69. Regmi J. op. cit. p. 412; Vajracharya, op. cit. p. 506; Vajracharya and Shrestha, ibid.

70. Regmi J. (ibid, pp. 381 - 382, and 409). Regmi J. (1978), ibid, pp. 54 - 58, 199 - 200 and 207 - 208 supports this view much more elaborately. Jha. (ibid, p. 132) argues that because the term Pratyari (a matching opponent) has been used in describing the every of Manadeva, the term Samanta used in the Changunaryana inscription means in reality' a neighbouring king', not merely a feudatory. Surya Bikram Gewali ('Political History', *Nepal in Perspective*, Kathmandu 1973 p. 48) describes the Samanta as 'recalcitrant tribes of the east and west'. Gopal and Verma (ibdi, p. 47) observes that Manadeva suppressed 'the neighbouring petty principalities' hinting there by that the Samantas were 'petty principalities, Vajracharya and Shrestha (ibid, pp. 33 - 36) are of the view that the Samantas of the east and west Nepal ruled their territories with due recognition of the central authority.

71. Regmi J. ibid, p. 409; Vajracharya and Shrestha ibid, p. 33. Dhundiraj Bhandari (*Nepal Ko Alochanatmaka Itihash*, Kathmandu, 1967 p. 48) observes that Manadeva made the Samantas so many karads (vassal states) as distinguished from Bhukti (directly ruled state). Regmi J. (1978) ibid, pp. 207 - 208), observes that although the status of the Samanatas has not been defined clearly in no inscriptions, it can be made out, that as a rules the Samantas ought to pay a portion of taxes raised in their territories to the king.

72. Regmi J. ibid, p. 382; Regmi J. (1978) ibid pp. 199 - 200 and 207 - 209; Vajracharya and Shrestha, p. 34.

Human Rights Development in the Lichchavi Period

CHAPTER FOUR

The basic assumption made in this study is that there must exist a philosophy and a framework of an operative dharmic system if any development of human rights is to take place.

Problem of Freedom

The concept of human rights as understood in the Hindu-Buddhist context embraces the universe of dharmic system of collective good. So, in practical terms the problems and processes of human rights development in the Lichchavi period were one of sorting out of dharmic relationship between the sovereign authority and the people in the governance of the country. The establishment of freedom demanded that countervailing power be used to check royal absolutism. The problem of freedom was, therefore, linked with critical shift in the pattern of rightful authority and the consequent changes in the balance of *dharma*. The problem was one of setting legitimate limits to domination so that the people could not be subjected to the inconsistent, uncertain, and unknown arbitrary will of a despot, on the one hand, and the people, on the other, could be

restrained from taking up extreme course of revolutionary action. Since *dharma* was the determinant of relationship between the king and the people, royal absolutism on the one hand, and treason, on the other, were put to the system of dharmic checks and balance.[1] The concept of collective freedom derived its legitimate meaning from this framework of checks and balance. There existed a procedurally regularized and secure legal system based on the principles of *dharma* to ensure rational justice and freedom. The condition was made for existence of a constitutive dharmic relationship between the ruler and the ruled. As members of the organic whole of the State, the King and the people conducted themselves predictably relative to each other with a deep sense of constitutive *dharma*.

As it has been established in the preceding chapter that the legal institutions had taken hold in the Lichchavi society, a necessary, if not adequate, condition was in existence for human rights development as understood in the Hindu-Buddhist culture. The tie between legal security and dharmic freedom lies in the fact that the foremost institutional remedy to unpredictable excessive use of power in the Hindu-Buddhist liberal monarchical tradition has historically relied on the system of checks and balance stipulated in the *Dharmashtras*, customs and usage and tradition. In other words, positive law was guided by the principles of *dharma* enunciated in the *Dharmashastras*.

The preceding chapter has made an attempt to assimilate the ingredients underlying this assumption in the context of Hindu - Buddhist tradition and culture. Now this chapter selectively focuses on the critical problems relating to the development of innovating human rights standard of Hindu-Buddhist culture-specific. This analysis is comprehensive neither with

regard to the items of human rights discussed nor in relation to the historical period reviewed. It does not offer a complete picture of the human rights problems which cropped up during that Lichachavi rule. In fact the data on the politico-legal history of rights and liberties of the Lichachavi period is neither extensive nor systematic. This analysis is based mostly on the inscriptional evidence and, as such, it has its own limitation. With the amount of available evidence it is hazardous to generalize about the stages of development of human rights in the Lichchavi period. Moreover, since this study is based exclusively upon historical development in Nepal, its utility as a Hindu-Buddhist model of human rights development is of limited scope. Nevertheless, it is assumed that it will serve as a preliminary step towards generating a model of human rights development of Hindu-Buddhist origin.

Given the security of dharmic system, the set of problems which are identified in terms of the Lichchavian march towards the goal of human rights achievement may briefly be labelled: (i) the problem of freedom (ii) the problem of balance of *dharma* which follows as a corollary. In this analytical approach, these two problems have been studied in a integrative method in as much as they constitute two ultimately linked variables for the model of human rights development set out in this study.

It is in terms of these two variables the Lichchavian effort for achievement of human rights is worked out in the context of dharmic order. *Dharma* as expressed in the stipulations of *Dharmashastras*, customs and usages had restraining influence upon the use of royal central power as well as upon the enjoyment of freedom. While the institution of monarchy played a vital role in the dynamic process of human rights development, its

potentiality as a negative force of absolutism would not be checked and balanced unless the restraint of *dharma* was brought into play. The protection of human rights within the framework of the institutions of *panchali, gosthi* or *sangha* was the *dharma* of the Lichchavian rulers. They had to abide by it in order to maintain the balance of *dharma*.[2] The rulers could not afford to subject the people to the uncertain despotic will of the central authority represented by the offices of Adhikarans. For such a subjection would disturb the dharmic equilibrium leading to a change in the balance of *dharma* which represented the balance of royal legitimacy authority, and of the people's power and freedom. Similarly, the enjoyment of collective freedom by the people's organizations such as a *panchali* under the protection of the institution of monarhy, implied fulfillment of *dharma* of the Lichachavi people. They could not afford to be treasonable in the interests of individuals and do away with monarchy, representing the social system. For, that would bring about a change straining the prevailing dharmic relationship between the royal authority and the people's collective will at the cost of freedom and human rights. This in substance was the problem of freedom and of the balance of *dharma*, in the process of human rights development in the Lichchavian era.

Hence, the dynamic process of human rights development in the Lichchavi period is to be understood in terms of accomodation between the royal authority and collective freedom. This process entailed a crisis of freedom whenever the balance of accomodation tended to be overweighed and overawed by ambitious usurpatory power. As to how the king and his people responded to this problem of freedom can be illustated by reference to the historical examples provided by the inscriptions of the Lichchavi period. Although the process

of achieving collection freedom was not uniform, in practical terms collective freedom meant the right to the freedom of self-government for a village or a group of villages. This idea is technically expressed by the term *Panchali.*[3]

The issue of freedom was precipitated by the struggle for power owing to the traditional rivalry[4] between the ruling Lichchavis on the one hand, and the contending famiiies of the Guptas[5] and/or the Varmas[6] on the other, who tended to usurp royal authority threatening to abridge collective freedom in the name of *de jure* royal authority.

Descriptive Details

From the available historial evidences a body of descriptive details of the political events involving the issue of freedom and the balance of *dharma* can be constructed which provides a pattern of the dynamic process of human rights development in the Lichchavi period.

The first known precipitous issues in the Lichchavi Kingdom was the political crisis involving the death or banishment of King Basantadev,[7] the grandson of King Manadev I, and the elimination of Rabi Gupta.[8] in AD 532[9], and the rise of power of Kramalilah [10] who was apparently a very influential personage in the Lichchavian court. The issues tended to disrupt the dharmic system of collective freedom as the tension between the rival political groups heightened. The political stability which presumably was maintained from the time of King Manadeva I was at stake.[11] The sudden exit of King Basantadev and elimination of his deputy Rabi Gupta along with four others and the emergence of Kramalilah as the *de facto* ruler (for the

next twenty-five years,) in a situation which appeared to be characterized by power struggle, indicated that till the ascendency of King Bhanugupta the political situation in the Lichchavi Kingdom was not appreciably stable.[12] Even during the rule of King Basantadev Kramalilah was a highly respected and very influential nobleman, enjoying higher status than Ravi Gupta.[13] It is possible that he had his own idea in grooming Rabi Gupta for a future role. Ravi Gupta was a descent of the Abhira Gupta family. But Kramalilah sensed the danger in the rising popularity of Ravi Gupta who having come in closer contact with King Basantadev presumably was influenced by the Lichchavian idea of liberalism and had accordingly adopted the people- oriented policy of granting local self-government to the villages, which were organized in the form of *panchali*.[14] Kramalilah, who evidently had nursed the ambition of ruling with absolute authority with the help and cooperation of the Guptas (Abhiras) seemed to have figured our Ravi Gupta, possibly his own protege,[15] as a potential source of threat to the fulfilment of his own political dream. It is also possible that he himself was instrumental in bringing about the downfall of Ravi Gupta along with King Basantadev and others.[16] Whatever may be the cause of elimination of King Basantadev and Ravi Gupta, it had serious implications in respect of human rights development.

The Lichchavian process of achieving progressively larger collective freedom received set back as Kramalilah tended to be a *de facto* despotic ruler in the situation of political instability.[17] Apparently for about twenty-five years (AD 532 - 557) Kramalilah tried to dominate the Lichchavian political arena by winning the support of the Guptas, who, despite the exit of Rabi Gupta, continued to rally forces with a motive to wrest power

from Kramalilah.[18] While three Lichchavian Kings seemed to have ascended the throne during this period (AD 532 - 557), not a single royal inscription belonging to the period have so far been found. On the contrary, three inscriptions - two dated AD 532 and one dated AD 545.[19] mention the name of Kramalilah with the titles of 'Maharaja - Mahasamanta' and 'Sri' - the title which seemed to have been exclusively conferred on Kramalialah.[20]

The epigraphic evidence shows that the villages of Dakshina Koligram, Kishi-pidi, Chowkitar Balambu, Tistung, Satungal and Chitlang were granted the right of self-government during the reign of King Basantadev.[21] This was a remarkable achievement concerning people's collective right to govern themselves, organized as they were in the form of institutions of *panchali, gosthi* and *sangha*. In a situation of political confusion which came about after the sudden death and/or elimination of King Basantadev and Ravi Gupta, this process was bound to receive a serious set-back. But the absence of not only the names of kings but also of any evidence of grant of such rights to the villages as a whole during the period of twenty-five years of Kramalilah's ascendency positively indicates that Kramalilah, in his attempt to protect the vested interest of Lichchavian aristocracy, had taken resort to set up a highly autocratic system of government, reversing thereby the process of achieving collective human rights.

King Basantadev & Ravi Gupta

On the basis of available historical evidences it can be assumed that King Basantadev and Ravi Gupta had worked out the first step towards human rights achievment in terms of the problem of collective political freedom of the villages, which as has been noted

above, were organized in the forms of *panchali, gosthi* and *sangha*. Till the time of Manadev I, the Lichachavis had ruled unchallenged by any rival group or groups and the people also seemed to be satisfied with whatever they enjoyed within the framework of the dharmic system of *panchali, gosthi* and *sangha*. With the rise in power of the Guptas, a source of conflict between the two groups, namely, the Lichchavis and the Guptas, also developed. Shrewd and far-sighted as Ravi Gupta was, he clearly foresaw the situation of power struggle as the different families of noblemen in the Lichchavi court had began to view with each other. In such a situation the people in their organized form of *panchali* could have played a decisive role in creating political problems. It was in anticipation of such a likely situation Ravi Gupta had set for himself the goal of achieving a measure of collective freedom. He formulated the policies and programmes of the government with a view to achieve this goal.

It however cannot be assumed that *panchalis* were granted the right to self-rule only after Ravi Gupta came to power. The *panchali* system predated King Manadev I. The system probably was introduced by immigrants like Lichchavis, Mallas, Kolis, Shakyas, who were originally brought up in republican tradition.[22] What actually happened when the Guptas came to power was that the dynamic process of achieving human rights through the instrumentality of *panchalis* was innovatively accelerated, and stage by stage, more and more freedom was granted to the *panchalis*.[23] A new dynamism was imparted to the traditional *panchali* institution in response to a call for a change in attitudes to the prevailing political issues. While the people gained more freedom collectively, the institution of monarchy too was strengthened as it inspired more faith and loyalty as a source

of national unity, development and freedom.[24]

King Basantadev and Ravi Gupta took the bold measure of freeing the people's organization from the traditional control of the central authorities by recognising a panchal's right of deal with matters which originally fell within the jurisdiction of adhikarans. Such a transfer of power however, were selective both in respect of jurisdiction and area of *panchali*. The degree of freedom from the control of central government depended upon the contribution of an eligible village towards promotion of collective good (*dharma*). From the available epigraphic evidence it is gathered that during King Basantadev and Ravi Gupta's rule, the panchalis lying in the south west direction, such as, Balambu, Thankot, Chitlang, were freed from central rule in respect of matters relating to the jurisdiction of Kuthera, Lingvala and Sulla Adhikarans.[25] The last two inscriptions of King Basantadev's time[26] reveal that the people of Chowkitar[27] and Pasinkhya[28] were granted a measure of self-rule on the basis of policy of maintaining balance between the central control and the freedom of panchalis.[29] The panchalis of there two villages were granted collective freedom which implied collective duty of maintaining the balance of central budget.

Kuthera and Sulla Adhikarnas[30]

The powers and functions of Kuthera Adhikaran were, as described in Chapter III, to collect 'trikar' that is, three kinds of taxes namely, agricultural tax, livestock tax and trade tax. The Kuthera Adhikaran was also entrusted with the duties of land administration and justice, and so all matters relating to registration and legal cases relating to land were also dealt by this Adhikaran. So in practical terms a village or a panchali's freedom from Kuthera Adhikaran meant the right to

deal with all matters including punishment relating to 'pancha-aparadha' (a set of five heinous crimes)[31] committed within its jurisdiction.

Thus, the devolution of the powers of these two Adhikarnas implied transfer of the sources of central revenues to the panchalis, besides enlargement of their collective freedom. More importantly this freedom implied *dharma* of making good the loss which the central authorities should have to bear at the cost of *dharma* of recognizing the right to self-rule of the meritorius panchalis. The balance of *dharma* therefore needed acceptance of collective duty by the people of concerned (Panchalis) to make good the loss of revenue to the central government by allocating certain pieces of land in the name of two Adhikarans and depositing the tax amounts owing to these pieces of land, in favour of these two Adhikarans.[32]

Kramalilah

Following the end of the rule of Basantadev and the death of Ravi Gupta, the political process of gaining collective freedom and human rights suffered a serious set-back as the ambitious Kramalilah tended to upset the balance of dharmic rule of Lichchavian tradition by assuming autocratic control of the state affairs for at least twenty-five years (AD 532 - 557). His rule tended to create a new tension of group rivalry at the cost of promotion and protection of collective good. During this period three or four Lichchavi king ascended the throne[33] but none of them seemed to have made any sort of royal inscriptions . This indicates that the political situation of the period was not congenial for achievement of human rights within the framework of the dharmic system. The inscription of Bhairavi, the maternal grandson of King Manadev I, at Hadigaon, which

is dated B.S. 472 (A.D. 550), also do not mention the of reigning sovereign. This is significant, for it is also indicative of the nature of Kramalilah's rule which tended to overshadow the sovereign power of the Lichchavi monarchs. The use of the term 'kushali' - a word normally reserved for the sovereign ruler himself - after his name also bear testimony to Kramalilah's unchallengeable position in the Lichchavian hierarchy.[34] It is worth noting here that Regmi. J. (1978) is of the view that although it cannot be assumed that Kramalilah was much more benevolent and liberal than the reigning king, yet he, unlike the Guptas, did not attempt to establish hereditary rule of his family line.[35] The epigraphic evidence does not reveal much about Kramalilah's role in the political process of human rights achievement, but as Regmi J. (1978)[36] has rightly observed his importance lies in the fact that he had the privilege of using the titles of 'Maharaj Mahasamanta' and 'Sri' and that he had risen to power at a time when the Lichchavi state was passing through a critical period of political instability and uncertainty.

Bhaumagupta

On the basis of available epigraphic evidence, it is not possible to establish positively the date of the end of Kramalilah's *de fact* rule nor is it possible to ascertain the definite date of Bhaumagupta's succession to the topmost hierarchy of Gupta premiership.[37] The Inscriptions however do indicate that Bhaumagupta had come to full grip with the political situation by AD 557 with King Ganadev on the throne.[38] With the rise in power of Bhuama Gupta a new era of human rights development had set in on the foundation laid by Ravi Gupta. The effective political leadership continued to be within the control of the Abhira Gupta family. The available

inscriptions show that Bhaumagupta was *de facto* ruler until AD 590, when King Shivadev, the reigning Lichchavi had, in fact, begun to assert his royal authority probably with the support of the Varman family.[39] Some of the inscriptions even go to the extent of raising the status of Bhaumagupta to that of a undeclared king.[40] There are no concrete evidence to show as to how Bhaumagupta worked his way up to this position amidst the political conflict which ensued after the death or elimination of Ravi Gupta, and rise of ambitious Kramalilah.[41] By AD 592 Bhuamagupta seemed to be out of power, as no inscriptions after this date bear his name.[42]

During his effective rule of about 33 years (AD 557 - 590) Bhaumagupta following in the footsteps of his illustrious father (grandfather[43]) had brought about remarkable changes in the human rights situation. During those days the Abhiras and their supporters used to inhabit sitatika-tala.[44] That is a group of villages, such as, Thankot, Kisipidi, Balambu, Chowkitar which were located between the area of the present-day hills Chandragiri and Dahachowk. And so, these people had been freed by Ravi Gupta from the interference of Kuthera and Sulli Adhikarans. To improve upon this situation of collective freedom of these people, Bhaumagupta recognized these people's rights to be free from the interference of another two Adhikrans, viz., Lingvala and Mapchowk. The tala was given full right to deal with cases involving 'panch-aparadh'. Sitatika-tala there-fore had achieved almost complete freedom from central rule during Bhaumagupta's rule. By consent on the basis of the principles of *dharma* the people of Sitatika-tala had collectively achieved a new stage of human rights development. The panchalis located within Sitatika-tala were free to manage not only the matters of general administration, but were also given the right to decide

cases involving major fine crimes and to levy taxes of all kinds and use them as a source of revenue. In Ravi Gupta's time they were bound to pay something to the concerned Adhikarans in order to compensate the loss of central revenue, but now no panchali which was freed from central authorities was, as a rule, asked to share the revenue which the concerned authority derived in the form of tax from the panchali's territory. This new achievement of human rights has been recorded in the inscriptions at Chowkitar, Balambu, Kisipidi, Sataungal and Thankot.[45] All these inscriptions have the same subject-matter, the same date and the same name of the ruler. This is indicative of the fact that Sitatika-tala was liberated collectively at one stroke of a royal seal.

Amsuvarma[46]

Apparently the downfall of Bhaumagupta was ominous from the view-point of the development of the dharmic system of human rights. The Guptas had espoused the cause of the collective good and had taken definitive measures to meet the challenge of human rights achievement. In reality however the ouster of Bhaumagupta was only a phenomenon of the traditional power rivalry, and the basic tenets of the Lichchavian policy about development of society on the principles of *dharma* remained intact as king Sivadev I,[47] as also Amsuvarma, cherished the Hindu-Buddhist ideals of dharmic state and endeavoured to realize them through the institutions of *panchali, gosthi* and *sangha*. There are reasons to believe that Amsuvarma, related as he was to king Sivadev, had his own ambitious ideas about the problems and processes of development of human rights in the Lichchavi society. In order to realise his dream of this development he took advantage of his

position vis-a-vis the reigning king and succeeded in taking over the reins of power with the blessings of king Sivadev. King Sivadev on his part was also not less concerned about the domination more than a century of long and continuous domination by the Guptas and the Lichchavi kings as mere puppets.[48] It was natural for king Sevadev to throw his weight as Lichchaivi-Kalaketi if favour of the Varman groups who blandished promises for a change for the better. The forces of traditional rivalry had worked as checks on a single group's domination and despotism, this in turn stimulated innovative change in the process of human rights development. This is borne out by the epigraphic evidence of Amsuvarma's efforts to develop the dharmic system of human rights and freedom on a more scientific and planned manner.[49]

Whatever may be the status of Amsurvarma, his role in bringing about a change in approach to the problem of collective good and freedom made tremendous impact on the development of human rights in ancient Nepal. It was his personality that was mainly responsible for it. Though he found himself in a situation which favoured the rise of a dictator with a titular king on the throne, Amsuvarma, influenced as he was deeply by the principles of *dharma* as enunciated by Kautilya,[50] did not take advantage of this political condition to usurp power for his selfish end. He ruled the country, no doubt, but had the humility to accept the fact that Lichchavi King Shivadev reigned.[51] So trusted a deputy indeed was that King Shivadev did not hesitate to make him a ruler *de facto* and Udaya-dev, the heir-apparent of King Shiva-dev, willingly served under him as a *dutaka* and Yuvaraj.[52] What concerned him most was the welfare of the people, and improvement of the human rights situation as understood in the Hindu-

Buddhist context.[53] Quite in conformity with the ideals of Hindu-Buddhist monarchy, he stressed on the fulfilment of collective obligations or duties (*dharma*) rather than the demand for individual rights and privileges. He adopted the pseudonym 'Kalahadhimani' and became famous by this name. Literally it meant one who takes pride in quarreling with Goddess Lakshmi'. It implied that Amsuvarma was learned and believed in the motto that knowledge, not wealth, is power. Learning and money-making, as the saying goes, do not go together. Amsuvarma had realized that much of the miseries of the people can be ameliorated if they are educated or given an opportunity for education. In other words, by assuming such a title Amsuvarma seemed to justify his dharmic action inspired by his ideal of a Hindu monarch.[54]

New Approach

Inspired as he was by the ideals of *dharma* and freedom, it was natural for Amsuvarma to pin his faith in the institutions of *panchali*,[55] *gosthi* and *sangha* as the appropriate channels for realization of his ideals. He approached the problem of human rights development with humility and knowledge. He responded to the challenge of his time with unique creative responsiveness and sensitivity and felt that the main solution lay in recognizing the necessity of comprehensive systematization of the process of granting collective freedom to the people organized in the form of *panchali, gosthi* and *sangha*.[56] As a result, very constructive and systematic reforms were brought about by him with a view of achieving human rights development. Prior to his reform, most of that which had been achieved in the field and human right development was piecemeal and selective grant of freedom to the people of one or the

other *panchali* on the basis of their special service to the State, or on the basis of their struggle against injustice and despotism. Aribitrariness could not be ruled out in a situation when a narrow parochial approach owing to the prevailing group interest or conflict could not be avoided. During the Abhira Guptas *de facto* rule, for instance, a tendency to religious prejudice and intolerance had developed which tended to compromise the principles of *dharma* and collective freedom.[57] Amsuvarma attempted to bring about a situation of religious tolerance and equality by adopting appropriate policy and programmes, despite the fact he was a Shaivait. He paid equal respect and attention to other gods and goddesses and did not withheld patronage to the establishments and institutions of other sects.[58]

There is no evidence, epigraphic or otherwise, which indicates that Amsuvarma ruled as a ruthless despot or tended to be as one. On the contrary, he seemed to have believed in liberal monarchy and *dharmanaya* of the Hindu-Buddhist tradition. He was constantly guided by the principles of Kautilaya's *Arthshastras* in matters of administration. He always respected popular will and aspirations, and took measures to fulfil the need of collective good and freedom.[59] He aimed at establishing the rule of *dharma* for freedom and happiness of the king as well as the people. He identified the problem of human rights development as one of maintaining balance between *dharma* of the sovereign and the *dharma* of the people. And, to bring about this balance he adopted policies and programmes based on considerations of rationality and pragmatism. It was these considerations which guided him to develop the institutions of *panchali, gosthis* and *sangha* on the principles of justice, equality and freedom, in short, on the principles of *dharma*. It is significant that the term *panchali,*

as has been noted above, gained currency during the time of Amsuvarma, although the ideas involved in this terms was not unknown to the predecessors of Amsuvarma.[60] In any case, it is an uncontestable fact that Amsurvarma as a ruler had played a very important role in developing the system of *panchali* for the sake of human rights achievement.

Specific Measures

It is worthwhile to analyse some of the specific measures of reforms which Amsuvarma took in order to achieve a system of human rights. From his inscriptions it can be gathered that Amsuvarma had on the one hand, accorded legal and socio-religious sanctity to *panchali* by upgrading its status to the level of gods and goddesses royalties and officials, on the other, he had granted more freedom to larger number of *panchalis* in a systematic manner.

The Hadigaon Inscription of Amsuvarma dated Sambat 32 records that *panchali* should also be considered along with the Shaivaite, Vaisnavaite and Buddhist gods of Pashupati, Changunaryan and Gunga Vihar respectively in apportioning statuswise the amount of their share of the fund of 'sravanika' which used to be raised from each household on the basis of valuation of its assets. For the purpose of 'sravanika' share the panchalis were categorised into two classes, viz. 'sapela panchali' and 'samanaya panchali' and the former received double of what the latter was granted.[61] While the panchalis were thus recognized as legitimate sharer of the public fund for religious institutions, they were also thereby made socio-religiously responsible in the discharge of their duties (*dharma*) for the cause of collective good and freedom. Similarly, the gosthi, which was a secular organization of the people mainly responsible

for their socio-economic needs was also given the right to share 'sravanika'. Its significance in dharmic society was therefore enhanced. Since Gung-Vihara is named as one entitled to share 'sravanika', it is implied that the Sangha too was given recognition as a body responsible for promotion of collective good and freedom.[62] In the context of human rights development, the enhancement of socio-religious significance of *panchali, gosthi* and *sangha* was a positive achievement for it implied the grant of right to equal protection of *dharma* and quality before sovereign power for people's organization in matters of sharing the public donations which were raised from the people themselves. Obviously, while these organizations were made more responsible of their duty (*dharma*), economic viability was also ensured positively by this new ordinance of Amsuvarma. This was a dharmic action on the part of Amsuvarma inasmuch as it tended to make freedom meaningful for the people.

The available inscriptions bear eloquent testimony to measures which Shivadev and Amsurarma took to bring about human rights achievement by systematically and extensively enlarging the freedom enjoyed by *panchalis.*

As freedom without *dharma* was inconceivable in the Hindu-Buddhist society, the granting of freedom to all and sundry just for freedom's sake would have been unfair and unjust, for in those days, all *panchalis* were not at the same stage of development, and administrative capabilities of each of the panchali also varied according to its level of growth and development. While, therefore, on the one hand, the problem of human rights development was taken up on a very extensive basis and all *panchalis* at the level of *grama, tala, dranga* and so on, were recognized for freedom from central

authority, or, for self-rule, on the other hand, each of the people's organization was evaluated individually to determine its feasibility as a self-governing entity.[63] So the people's organizations at different levels were granted different grades of freedom on the basis of their capability to tolerate the absence of central authority without endangering the total social system. The idea was to balance and reconcile the exigencies of royal or central authority against the need of duty (*dharma*) of the people. It was the introducation of this element of rationality in the process of granting freedom that can be regarded as a landmark in the history of development of human rights system in ancient Nepal.

Amsuvarma had adopted the liberal policy of freeing the people extensively both in terms of structural control as well as territorial limit. Thus, while on the one hand, the people living at *grama, tala, dranag, kotta* were granted freedom from central interference of various degree, on the other hand, the *panchali* which were considered for the granting of self-rule were not limited to the valley of Kathmandu. The *panchalis* in the areas outlying the valley, some extending as far as the present-day Tistung in the south and Dhading in the west were also considered for the grant of freedom.[64]

Some epigraphic details are in order. The gramas of Gungdimaka is forested *Kotta* (fort) were freed from central government interference. But, this freedom implied *dharma* to protect the forest wealth for the collective good.[65] Two gramas - one in the vicinity of present day Banepa town, and the other in the present day Banepa village at Bansbari, were upgraded to the level of a Kotta and freed from interference of Chat-Bhat in matters of central land-tax.[66] The Kadung village which lay probably lay near Satungal village of the present-day Balambu area in Kathmandu valley, was freedom

from the control of Kotta authorities of Phayrang in matters of felling and transportation of trees from any forest are for timber; as well as cutting and transport of grass for animal fodder, from any forest area.[67]

The *Yupa-grama-dranga*[68] was granted the right of self-rule in matters including pancha-aparadha which were normally dealt by Lingvala and Sulli Adhikaranas. It was only in matters relating to 'Tri-kara' (that is, the agricultural tax, livestock tax and commerical tax).[69] This *dranga* was not free. The Kuteera Adhikarana was given the right to collect these taxes from this *drang* directly. This policy it may be noted here underscored Amsuvarma's concern for maintaining balance between the *dharma* of the sovereign and of the people. Without a steady source of revenue the State could not be run smoothly and its integrity and independence could not be safeguarded in conformity to *dharma* of a Hindu-Buddhist King. Amsuvarma could not deviate from this path of *dharma;* but to ensure freedom for collective good of the people was also *dharma* of the sovereign. It was to keep up this balance of *dharma,* Amsuvarma had devised this policy of the Yupa-grama-drang model. The people of this *dranga* were exempted also from the taxes on garlic and onion.

The people of *Makhoprim dranga* with a *tala*[70] *Khripung grama*[71] *Dharmashtali grama*[72] and *Pranalidimak grama* of Dhapashi area[73] were granted freedom from interference of the Adhikarans in matters of lekhyadana (registration procedure) and pancha-paradha. Only the Kuthera Adhikarna was authorized to levy 'tri-kar' on these gramas and on the dranga with a tala.

A remarkable human rights development was brought about by AD 598 (Sambat 520) when Kurppashi (Khopasi) village (located a little farther from the present-day

Panuati in Kavre district) was liberated from central rule. The people as organized in the from of *panchali* assumed all power of local self-government. But every person in the village was asked to fulfil his or her *dharma* of paying tax in kind of fifty balls of white clay (Kamayra) for the ceremonial processions of Duarodhatana - jatra and Kailash-jatra.[74] In case any matter came up which could not be dealt by the local *panchali,* it could be transferred to 'talaswami' which dealt with it finally.[75] Kurppashi village which was situated far away from the seat of central government or the Royal Palace, was spared of the trouble of calling in central government offices at the capital city for matters relating day to day administration.

The last known inscription issued from Mana-Griha by Amsurvarma with the consent of Siva-dev dealt with gosthis' share of income from the paddy-field in the *Lamebatti-dranga* donated by preceding kings and others for *dharma*.[76] This inscription reveals that Amsuvarma had taken a very comprehensive measure to ensure steady income for various kinds of *gosthis,* both religious and non-religious in the *Lamebatti-dranga,* so that the people in the *dranga* could manage their specific *gosthi* problems in the interest of collective good efficiently and effectively.[77]

The inscriptional evidence shows that Amsuvarma began to issue ordinances on his own from Kailashkutabhavan and not from Mana-Griha from AD 605 onwards. It is assumed that Shiva-dev had then abdicated in favour of Amsuvarma.[78]

After assuming sovereign power *de jure*, Amsuvarma, while keeping in constant view the policy of associating increasingly the people in matters of local self-government, turned his attention to all round development

of the country. His own first inscription dated Sambat 29.[79] records the promulgation of an ordinance which seeks to free the people of Bugayumi (the present day Bungmati) *grama* from the interference of Bhattadhikarna in recognition of their success in poultry, piggery, fishery and the like farming. While the *panchali* of this village was thus granted the right to deal with Bhattadhikrna duties and responsibilities, the balance of *dharma* was maintained by a reservation in matters of *'dharmashankar*.[80] The Royal Palace could step in if this freedom would tend to create the problem of violation of professional code of conduct determined according to the principle of Varna-asrama 'scheme'[81]

Foreign trade was another sector of the economy to which Amsuvarma turned his serious attention in order to ensure more freedom for the people of outlying village of Tistung and Bhatuwal which were located on the trade route to India. While export of commodities like iron, yak's tail, wool, musk, copper utensils were traditionally restricted, all other commodities were allowed for export without duties. [82] In other words, the people of these two villages were freed from interference of Visayapati, Tadayukta, Saulikak, Gaulimik and the like in matters of export trade of non-restricted commodities, so that foreign trade with India may flourish for collective good of the people.

Similarly, to lighten the burden of economic hardship and thereby to protect human rights of the people of *Sanga grama,* Amsuvarma had exempted the oil producers of this *grama* from oil taxes in kind.[83] *Panchali* of the Batu area was freed form taxes on buffaloes and pigs, and was granted the rights to deal with cases relating to panch-aparadha.[84] *The Adhashala panchali* was freed from the interference of Pashimadhikaran in matters of the temples of Surabhogyeshowor, Laditamaheswor

and Dakishasheswor, and so also *Marmayliti panchali* was freed from Pashimadhikaran control in respect of a temple of Shakernarayan.[85] The people of Zonjonding village were freed from the authority of Lingvala Adhikarna in recognition of their good work of construction of a water spout for community welfare.[86] There are many other inscriptions issued by Amsuvarma, but unfortunately they are so worn out that no comprehensive and coherent record can be made out from them.[87] The last dated inscription of Amsuvarma's time so far discovered bears the date of Sambat 45 Jyestha (AD 621, May-June) and it was found near the Mahankala temple ot Tundikhel in Kathmandu. Its contents has no bearing on the human rights development. What it reveals is the date, Sambat 45, which read with the recently discovered Citalang inscription of Udayadev, confirms the assumption that Amsurvarma had died eventually as a Bhattaraka Maharajadhiraja in Samabat 45 and that he was only a 'sryamsoh' till Baisakh of the same year.[88]

The significance of Amsuvarma's contribution to the development of human rights in ancient Nepal lies in the fact that the systematic granting of the right t0 freedom of self-rule to the popular institutions like the *panchalis* and *gosthis* had accelerated the dynamic process of intergrated development of the incipient Nepalese society based on the principles of *dharma*. The human rights achievement as also other achievements during Amsuvarma's time strengthened the political will of the king as well as of the people to defend their sovereignty, independence and territorial intergity while taking new steps towards the goal of progress and development.

Jisnu Gupta

After the death of Amsuvarma the question of expansion and enlargement of freedom in accordance

with the principles of *dharma* reached a critical point as the Abhira Guptas under the leadership of Jisnu Gupta[89] - the grandson of Bhauma Gupta-rallied political forces to oppose the domination by the Varma Guptas in the name of Lichchavi sovereign. The political conflict which ensued between the traditional rival groups following the ascendancy of Udayadev[90] - a Lichchavi prince chosen as a successor by Amsuvarma - resulted in the fleeing of the ruling Lichchavi king Udayadev to Tibet for refuge and the coming into power of Jisnu Gupta. Shrewd and far-sighted as he was, Jisnu Gupta did not do away with the institution of monarchy, but, following in the footsteps of Bhaumagupta and Amsuvarma, he assumed the power of a *de facto* collateral ruler with a palace of his own at Kailashkut Bhawan.[91] He put Dhruvadev on the throne, at Managriha, but he himself began to rule without assuming the title of 'maharajadhiraja'. But still, his rule lasting about twelve years (AD 624 - 635) cannot be likened to those of his predecessors like Ravi Gupta, Kramalilah, Bhauma Gupta and Amsuvarma.[92] It had its own characteristics. The Abhira-Guptas had staged a comeback after thirty-one years of their domination during Bhauma Gupta's time. Jisnu-Gupta had conspired against Udayadev - Amsuvarma's successor, and seized power forcibly with active support of the people and probably at Dhruvadev connivance, within three years of the death of Amsuvarma[93]

The Abhira-Guptas were vindicated. But what did it signify ? A collapse of the process of human rights development so systematically set in motion by Amsuvarma. It also marked the beginning of a despotic rule. In any case the sudden ouster of Udayadev and enthronement of a puppet king by Jisnu Gupta had posed a problem of freedom. Within a span of twenty

years (AD 621 - 641) two Abhira Guptas shared power with three Lichchavi rulers in a relatively quick succession. The political situation tended to be unstable threatening to set back the process of human rights development.

However, the dynamic process of check and balance of *dharma* which was accentuated by Amsuvarma's systematic approach to the development of *panchali* operated as a built-in mechanism for controlling the excesses on the part of the ruler as well as the ruled. A usurper could be as ambitious as he wished to be, but he could not do away with the institution of monarchy and *panchali* system rooted in the Nepalese tradition and culture; so also the people could aspire to attain as idealistic a height of freedom and liberty as they could conceive but they could not ignore the principle of *dharma* which implied loyalty, devotion and duty towards a sovereign who dutifully protected and provided for them all that was necessary for their existence and development. In the context of this dharmic scheme of things, the system of human rights continued to develop in Jisnu Gupta's time also.

While, on the one hand, Amsuvarma's policy and programmes had given a new meaning and content to the institution of monarchy, it had, on the other made people better organized and more powerful owing to the popular institutions like *panchali, sangha* and *gosthi.*

The very first step which Jisnu Gupta took after assuming full control of State affairs was related to the repair and maintenance of irrigation canal which was built by Amsuvarma for the use of Thambu, Gangshul and Mulbatika panchalis in the present-day Patan area. But in Jisnu- Gupta's time the canal was in disrepair so he got it restored and put it under exclusive control

of these three panchalis.

To provide these panchalis with a source of income for meeting the expenses for repair and maintenance of this canal Jisnu Gupta had made a grant for some pieces of land located in these panchalis so that they could collect rent from these plots of land.[94]

Jisnu Gupta had issued four other inscriptions[95] in the name of Dhruvadev and three others[96] in the name of Bhaimarjunadev. These inscriptions show that during the reign of Dhruvadev[97] the people of Magwala (the present-day Maltar village near Balambu) had been granted freedom of self-rule in return for their meritorious work of community development; the Gita-Panchalika of Dakshina koligram was given the right to appropriate one-tenth of land rent for the maintenance and repair of the irregation canals. Tsongu, Yubisama and Talanju grams were given the status of Kotta and were thus granted freedom due to kotta. The people of Nepapunna dranga(located in the present-day Kewalpur of Dhading district) were granted freedom of worship of Ichchangunarayan which is located on the opposite hill of Kewalpur; they were freed from interference of Lingwala and Sulli Adhikaranas, and were exempted from traditional tax in kind of compulsory labour (*visti*).

Similarly, during the reign of Bhimarjunadev,[98] the people of Jolipring panchali (located in the present-day Balambu area) were exempted from 'chaila-kar' (textile duty), the Dakshinakoli grama panchalis were freed from the control of Bhattadhikaran and were relieved by reduction 'malla-kar' (bufallo tax) and 'visti' (tax in kind of labour). The people of Thencho grama were granted the right to production of cloth free of government tax,they were also partially relieved of the

burden of taxes for Go-yudha (bull-fight ceremony) and for 'sin-kar' (fuel and timber).[99]

Thus, Jisnu Gupta had adopted the traditonal policy of strengthening the people's organizations by recognizing their right of self-rule. By AD 633 (Sambat 57), as the inscriptional evidence shows, Jisnu-Gupta was dead and gone.[100]

Vishnu Gupta

After Jisnu - Gupta, his son Vishnu Gupta[101] succeeded him as the *de facto* ruler while Bhimaarjunadev was the reigning king. Despite his tendency to glorify his name with royal titles and Lichchavi end-name, Jisnu Gupta did not ignore the Lichchavi sovereign. Vishnu Gupta, perhaps in his craze to excel his father completely ignored the reigning Lichchavi king Bhimaarjunadev and issued inscribed ordinances in his own name.[102] How far the despotic rule of Vishnu Gupta set back the clock of human rights achievement during the last 155 years of the recorded Lichchavian history that connot be adequately studied from his four available inscriptions.[103] However, as his inscriptions show, his rule was of a relatively short duration- about eight years! Before he could achieve much of what he had aimed at his rule was cut short by a revolt led by Narendra-dev.[104] The forces which stabilze the balance of *dharma* came into play within the dharmic system.

As his inscriptions show, Vishnu Gupta, while assuming sovereign power, seemed to focus the people's attention to the problem of socio-religious rather than socio-economic nature. His very first available inscription[105] grants the right to freedom of remarriage to the widows, to the women who divorced their husbands on grounds of desertation or unduly long separation,

renunciation, or bad reputation, and to the women who divorced being sexually unsatisfied with her husband, or having husband being loose in character or sexually lax, provided her second marriage would result in birth of children. Otherwise, the Mapchowk Adhikarna would come in to act according to law. This is however not a new marriage law. Vishnu Gupta had only accorded legal sanction to the age-long custom of remarriage among the Hindus and the Buddhists.

The next inscription which is located at Lagantole Yangalhiti of Kathmandu[106] city, records the grant of the right to freedom of wearing certain ornaments to the inhabitants of Dakahinakoli grama which constituted one-fourth of the total area of the Dakshinakoli grama.[107] These people had won this freedom in return to their contribution of labour in pulling a huge slab of stone into a place which was located at the present-day Budhanilakantha. It is believed that the image of reclining Vishnu which is found there today was chiselled out of this slab of stone. In recognition of their meritorious service the people of this grama were also freed from oppressive criminal law which made punishable not only the guilty person or persons but also all his or their family members for crimes of theft, adultery, murder, treason and the like. This inscription proclaimed that only the directly guilty person should be made punishable for these crimes. Similarly, the people of Bhrigara grama also freedom from the oppressive criminal law, just one year after Dakshinakoli grama's freedom.[108] It is, however, noteworthy that the inhabitants of this grama were granted no freedom relating to ornaments. According to Vajracharya since Dakshinakoli grama was within a dranga - generally a better off unit of the Panchali hierarchy, and since this dranga had already won the freedom of self-rule, its inhabitants would

naturally aspire for right to the freedom of wearing special kinds of ornaments, which was ordinarily a privilege of the elite families only.[109] But, the inhabitants of Bhrigara grama had not yet been freed from politico-legal control of the Adhikarans and so they were appropriately granted this king of freedom.[110] This indicates that Amsuvarma's rationalistic approach to the development of human rights had been maintained by Vishnu Gupta too despite his tendency to despotism. These two gramas had contributed labour of the same nature but they had won different kinds of freedom, for, they were at different stages of development and so their need for freedom was also at variance.[111]

War of Liberation

From the viewpoint of human rights development the precipitous issue in Narendra-dev's time[112] was the restoration of the balance of *dharma* through the war of liberation. The people under the leadership of Narendra-dev waged war against the forces of ambitious Abhira-Guptas. This involved large-scale killing in the battlefield.[113] Despite the fact that Narendra-dev had wiped out the enemy of the Lichchavis with a vengeance and had thus revived the glory of the Lichchavis by putting an end to the system of dyarchical rule, the question of the safeguard of the independence and sovereignty of the kingdom from the internal disintegrating forces and from external interference continued to plague Narendra-dev's ruler. Narendra-dev had fought a war against his internal enemies with foreign military assistance.[114]

However, during his thirty-six years of rule, Narendra-dev marshalled enough skill of statecraft to counteract the forces of disintegration both on the domestic fronts as well as the international relations.

He consolidated and strengthened the political structure and function creating a condition congenial for the growth and development of human rights and freedom.

While the Abhira Guptas had been subjugated without a shade of doubt and thus had been brought in the mainstream of intergrated national development, the relationships with the great and big neighbouring countries of Tibet, China and India were maintained at their best by skillful diplomatic manoeuvres and strengthening of cultural ties.[115]

By weeding out the roots of political instability stemming from the traditional rivalry among the ruling dynasties of Lichchavis, the Abhira-Guptas and the Varmas, Narendra-dev had achieved, in the first place, a solution to the problem of the balance of *dharma* which had tended to tilt towards absolutism, since the time of Basantadev.[116] By securing foreign military assistance in restoring the power and authority of the Lichchavi dynasty he had brought about an unprecedented development towards maintenance of the balance of *dharma* for freedom and collective good.

Narendra-dev

For two important considerations Narendra-dev had to think afresh of the problem of freedom and collective good. He had wrested the paternal throne from the control of megalomaniac adversaries with the active support of the people, and, therefore, he owed much to them. Moreover, the people in his time were better organized and they could not simply ignored him. Secondly, as the innovative political approach of the Lichchavis in Nepal had been characterized by a subtle blending of the elements of democratic and monarchical ideals and practices. The Lichchavian rulers had iden-

tified the *panchalis, gosthis* and *sanghas* as the only alternative means for getting solved the people's problems. They had rejected the option of absolutist solution as a violation of the long-established Lichchavian tradition of liberal monarchy.

So, after getting rid of the Gupta's domination, Narendra-dev focussed his attention on the development of human rights for collective good in the best tradition of the Lichchavi rule which was characterised, for instance, by religious tolerance and respect for all the Brahmanical and Buddhist deities. In his very first inscription he had declared his sacred wish of dedicating his life for the cause of collective good of the people.[117] Unlike his predecessors, Neındra-dev ruled with supreme authority unchallenged from any rival quarters. He, however, did not misuse his authority for personal aggrandisement and at the cost of the people's freedom. Imbued deeply as he was in the spirit of Lichchavian ideals, he continued to develop the process of maintaining the balance of *dharma* with evermore vigorous pursuit of the policy of recognizing more and better freedom for collective good of the people. He was, to quote Dr. H.N.Jha, "an undaunted personality in whose viens always flowed the warmest blood of freedom.[118] Dhanavajra Vajracharya is of the view that it was because his rise in power which had heralded the beginning of the glorious rule of the Lichchavis that Jayadev II had made a special reference to Narendra-dev in his Pashupati inscription.[119]

As his first inscription at Bhansar Chowk of Lalitpur Darbar reveals that Narendra-dav had attempted to bring about a new achievement in the field of human rights by recognizing at one stroke the right to freedom of self-rule for all panchalis and 'talas' of the Yupagrma-dranga in matters over which the Bhattadhikarna,

Mapchowk Adhikarna and Pitalja Adhikaran[120] used to exercise authority.[121] One or the other panchali within the territorial limit of Yupa-gramadranga had been granted the right to freedom from one or the other Adhikarna's control at one or the other time by the previous Lichchavi rulers, but never before had all panchalis including the talas been given freedom of one and the same kind under one and the same royal seal as was done by Narendra-dev.[122]

In the process of pursuing the policy of granting the right to freedom for the people Narendra-dev took up the Dakshinakoligrama which through different periods of the Lichchavi rule had won so much of the right to freedom of self-rule, that it had become virtually an autonomous dranga.[123] There was no sense in granting political freedom to this dranga. Narendra-dev had however recognized that the panchalis in this drang had been done great injustice by Bhauma Gupta by depriving its people the right to freedom of management and utilization of revenues from the temple of Bhuvaneshowri at Maneshwor village which is identified as a located in the present-day Naxal area of Kathmandu.[124] Similarly, the duty of maintenance of Shivagal temple located at Sitati village of Balambu area was handed over to the Dakshinakoli grama. So also the Birta villages of Kongko, Bilwamarga and Husprundu were freed from Chatbhat's jurisdiction, and handed over to the Dakshnakoli grama after according them the status of a Kotta.[125] Narendra-dev restored this freedom back to the people of this dranga, probably in return for their service during the war of liberation.[126] Vajracharya opines that there are two reasons for this step of Narendra-dev. First, Narendra-dev wanted to win the confidence of people of this well-known and strong dranga and, secondly, he seemed to be motivated

by the desire to lower the prestige of the Guptas in public esteem.[127]

The next inscription of Narendra-dev located at Deopatan Kasaitole of Kathmandu reveals that Narendra-dev had freed the people of Navagriha from the interference of Chatbhat, that is to say, these people as well as the gosthi related to Navagriha village were freed from obligation of payment of land rent to the central authority.[128] Similarly a village in the Chyasaltole area of present-day Lalitpur was freed from the control of chatbhat.[129]

In his attempt to make freedom more meaningful in the context of Hindu-Buddhist society, Narendra-dev pursued vigorously the traditional policy of granting politico-legal, socio-economic and religious rights to the religious organizations too. The people of different sects and religions were deeply influenced as they were by profound religious experience and philosophy of life, had organized themselves within the limit of their religious orders and temple-areas to protect and promote of their interests.[130] With a view mainly to help, protect and develop these organizations financially so that they could enjoy freedom more meaningfully, Narendra-dev had granted these organizations some politico-legal rights to freedom of self-rule.[131]

The Lalitpur Gairidhara Inscription of Narendra-dev[132] records that the Pashupati Sangha located on the other side of the Bagmati river were freed from interference of all kinds of Adhikaranas. While freeing thus this Mandali (that is the place for religious congregation) of Shaivaites of Pashupati sect, Narendra-dev had taken the precaution of maintaining the balance of *dharma* by making a provision of settlement directly by paramashana of any legal dispute arising within the

limit of this 'Mandali',[133] However, the legal fees payable on account of such cases could be appropriated only in the name of Pashupati Sangha, which also can be explained in terms of the balance of *dharma*. Justice, not the financial benefit for the central authority, was the main objective of this provision.[134]

Similarly, there are two inscriptions [135] which show that Narendra-dev had recognized the right to freedom of self-rule for the Bhikshu Sanghas of Shivadev Vihar[136] by granting them the right to rule independently the Panchagarta grama and Gullatanga grama which were transferred to them in the form of 'agrahara' (birta land). In order to raise fund for running the affairs of these gramas the Sanghas could levy toll on merchandise sold in the market, and could appropriate the fines realized from the culprits of weights and measure crimes as well as the court fees on account of major legal cases, such as, 'pancha-aparadh'[137] The birtas were granted free of the compulsion of contribution of unpaid labour which could be ordinarily requisitioned by the central government in times of emergency from the owners of birta land. The Sanghas were also granted the right to freedom of dispensation of justice within their jurisdiction. Only those legal cases which could not be decided by them were directly referred to 'paramashana'for final judgement.[138]

While the above inscriptions refer to the Shiavaite and Buddhist religious sects, the inscription at Anantalingashwor.[139] located in a hillock near Suryavinayaka of Bhaktapur deal with the rights and duties of the people of Hansagriha dranga in which the temple of Vaishnava deity called Lokapalswami was located. This dranga was freed from the control of all Adhikarans and, in the meantime, they were required to contribute to the fund for the temple-establishment,

maintenance and religious celebrations in connection with the deity of Lokapalaswami.[140] The significance of this inscription lies in the fact that it clearly testifies to the collective enjoyment of broad comprehensive and non-discriminatory politico-religious freedom consistent with the traditional Lichchavian policy of maintaining the balance of *dharma*. Narendra-dev himself was a Shaivaite and Shaivism was the State religion but the Buddhists and Vaishavaites were treated at par with the Shaivaites.[141] This speaks a volume on the right to freedom of religion which the people of Lichchavi Kingdom had enjoyed under the sovereign protection.

Thus, it is evident that during Narendra-dev's benevolent rule the people had gained comprehensive and extensive freedom. Not only the panchalis and gosthis, but also the Sanghas or mandalis had been given the right to freedom of self-rule. So also, not only the gramas, talas and drangas of the Valley of Kathmandu, but of far-flung places like Nuwakot, Chitlang, Tistung and the like were taken into consideration in recognizing people's right to the freedom of local government. Since, the political freedom of a unit of panchali, gosthi or sangha would be meaningless without the economic viability of the unit, the Lichchavi kings had made it a point to see to it that a grama or a dranga or the like, if given the right to freedom of self-rule, should also be free from economic domination so that such a free unit or open society could take its own course towards development without disturbing the balance of *dharma*.[142]

Indeed, the whole edifice of human rights system of the Lichchavi period had attained a new height of development during Narendre-dev's rule, and it continued to grow as the people gained increasingly more freedom of self-rule.[143]

During Shivadev II's rule[144] the people as organized in the form of panchalis, gosthis and sanghas continued to win freedom without any precipitation of internal political issues. The village of Vaidyagrama which was already freed from Chatbhat's control and attained the status of kotta, was granted to the Acharyas of Vasapashupat sect so that the Acharyas, drawing upon the resources of local rent, taxes and the like could manage the temple of Sri Shivadevshwor, built by King Shivadev II himself.[145] There was however one exception. Even though the village was transferred to the authority of the Acharyas as a birta land, the people of this village were not freed from the obligation of providing from among them a group of five porters on a 'bhottavisti' service (unpaid compulsory Tibet labour service) to the merchants engaged in official trade business with Tibet.[146]

The people of Bhrigareshwor panchali had won the right to freedom of management and control of stone-built water-spout, irrigation canals and the temple of Bhrigareshwor.[147] To provide a source of income which would be necessary to carry out the duties of protection, maintenance and repair of its properties, Shivadev had made a gift of some land in the name of this panchali. Similarly, Dawakotta grama - a royal property - was handed over to Sitatidranga after making it a kotta, and freeing it from the obligation of payment of taxes and compulsion of local phalanju 'visti.[148] The purpose of this gift was to provide a source of income for the panchalis within the Satatidranga so that they could look after the upkeep of the temple of Putti-Marayan, perform daily worship of karanapuja, and then use the remainder of the amount for the annual worship of Pashupatinath as well as for the collective good of panchalis in the Sitatidranga.[149]

Thus, by pursuing the traditional policy of protecting and promoting the panchalis, Shivadev had continued to work for the development of human rights system. During his rule no occasion seemed to have arisen leading to abridgement or suspension of human rights as understood in the Hindu-Buddhist context, except the wars with Tibet in which the Tibetan King was eventually killed.[150]

Juridical Problem

By the time Jayadev II[151] had come to power the people's organizations had won much of the right to freedom of self-rule. With the gradual devolution of political power to the people, however, the possibility of emergence of divergent juridical standards, ranging from dharmic justice to rank arbitrarism, loomed large. As the great bulk of the panchalis had won freedom of dispensing justice in cases involving major crimes of 'panch-aparadh'[152] the risk of infliction of conflicting judgements and punishments for the same kind of offence or wrongful action had increased enormously.

Therefore the main issue confronting Jayadev II was the threat of juridical anarchy as a concomitant of the political development relating to human rights and freedom. This was a situation which threatened to jeopardize the very basis of freedom and human rights. Without the guarantee of uniform, certain and speedy justice, the very freedom for which the people had fought the wars for liberation under the leadership of their sovereign would be rendered meaningless. The standard of human rights certainly could not be measured in terms of anarchical situation. Moreover, in the context of Hindu-Buddhist society of the Lichchavian era, freedom at the cost of balance of *dharma* was inconceivable, no matter how primitive the dharmic system

to secure this balance had been. In fact, the charisma of dharmic personality of Hindu-Buddhist monarch continues to influence the concept of balanced development of a modern Hindu-Buddhist society.

It was Jayadev II, as his inscriptions show[153] who had identified this problem and taken appropriate measures to resolve it. In the process, the human rights system attained a new stage of development which was characterized by the guarantees of political freedom and juridical certainty, uniformity and efficiency. This again can be interpreted as the working of the dynamic process of maintenance of the balance of *dharma*. The tension created between the elements of freedom and justice had threatened to tear apart the very fabric of Lichchavian society woven on the warp of *dharma*.

Jayadev II

Jayadev II gave a new impetus to the progressive growth of the system of human rights by attempting to regularize the juridical system for just, uniform and predictable settlement of questions of fundamental freedom and human rights. He sought to minimize the possibility of violation of collective security of the people's organizations and individual security of a Lichchavi citizen by creating a system of safeguards based on uniformity, certainty and efficiency of juridical guarantees against collective or individual despotism and arbitrariness.

The dynamic process of institutionalization of freedom and human rights had brought about in its trail the problem of maintenance of *dharma* created by the emergence of autonomous entities. Justice is indivisible, but, a liberated *panchali* or a *sangha* could adopt its own procedural laws in dealing with a legal case. It need

not necessarily follow another panchali's legal procedures, although the offence may be of an identical nature. There was thus no juridical guarantee against collective despotism and arbitrary will of a panchali. Each individual, panchali or a sangha would win freedom on the basis of its meritorious work or sacrifice for the cause of the king and the country. The people of all panchalis and talas within the jurisdiction of yupagrama dranga, for instance, had won freedom owing to their participation in the war of liberation waged by King Narendra-dev. In recognizing the freedom of the people's organization the Lichchavis had not, it seems, given due consideration to the idea of national uniformity, certainty and speed in administration of justice. But two centuries of development in the realm of political freedom had underscored the need for looking into the problem of juridical nature engendered by the process of political freedom. The legal order based on the principles of *dharma* was threatened by the forces of instability and disintegration. For seeing this possiblity Jayadev II took appropriate measures to secure and regularize, procedural law throughout the Lichchavi Kingdom.

Three of his inscriptions, viz, the Minanath the Narayan Chauwar and the Gyaneshwor inscriptions[154] bear ample testimony as to what guidelines Jayadev II issued for the concerned authorities in his attempt to procedurally standardize the legal system of his Kingdom on the basis of the *Dharmashastras*.[155] It is unfortunate that most of the inscriptions of Jayadev are worn out or broken. Otherwise, much more evidence could have been gathered to reveal his innovative approach to the problem of juridical standardization. However, it is evident that Jayadev II had realized the importance of legal foundation for protection of human rights.

Jaydev II's successor's inscriptions, in whatever form

they may be, do not reveal anything relevant to human rights concern expect some names which seem to belong to the Lichchavi ruling dynasty. In fact, epigraphically speaking, the ancient history of Nepal comes to a close after Jayadev II's rule.[156] And, it is difficult to pick up the pieces of Nepalese historical development until AD 879 when the Nepal Sambat was presumably launched to herald the beginning of a new era of Nepalese history.[157]

It would be appropriate to conclude this chapter with a description of some details of Jayadev II's juridical reforms towards achievement of human rights system.[158]

The Naksal Narayan-Chaur inscription reveals that the panchalis while functioning as a court of law, were expected to keep written records, and anybody who committed the offence relating to documents would be punishable with a fine of 4 pana purana. Similarly, any person who would attempt to influence a witness or witnesses unduly by threats or inducements or communication of secret judicial matters, and thereby interfere with, and mislead the administration of justice, would be punishable with a fine of 2.5 pana-purana. To ensure efficient and effective execution of judicial sentence, any convict who would attempt to escape after the court's verdict, or ignore a judge's order, was liable to heavy fine for contempt of court. Any party aggrieved by the decision of a panchali court was entitled to make an appeal to the royal court of Antarashana or Paramshana through a Duawarika. This appeal case had to be disposed of within a month of registration. This ensured a speedy remedy against unjust and prejudicial judgemant of panchali court.

The right to freedom of life of a pregnant woman and the child was ensured by making any person

responsible for the death of such a woman punishable with a fine of one hundred pana and in case such a death occured, the responsible person was required to notify the government of the fact of the death and to pay to the Duawarika the amount of one hundred pana. The law also required that the dead body of such a woman should be cremated only after a post-mortem so that the foetus or the child, if living, could be saved. Similarly, a notification to the Duawarika and a payment of 6 panapurna and 2 pana were required for disposal of the dead body of person who died by suicide or in an accident.[159]

The Gyaneshwor inscription[160] indicates that the panchalis were empowered to arrest the culprits and hand them over to the royal court for necessary action. This inscription reveals that the basis of legality in the Lichchavi kingdom was the *Dharamashastras* and that the laws were made with the active assistance of Brahmins learned in the *Dharmashastras*.

To ensure collective right to the freedom of agriultural life by providing irrigation facilities, Jayadev II had, as his predecessors, made provision for direct jurisdiction of the royal court in matters relating disputes among the panchalis concerning irrigation canals in the Yupagrama dranga.[161] Thus Jayadev had recognized panchalis' collective right to protection of their economic freedom by sovereign ruler in the interest of the maintenance of balance of *dharma*. Similarly, he had also pursued the traditional policy of freeing panchalis from the central inteference in matters of general and fiscal administration.[162]

However, Jayadev II's most invaluable contribution had been in bringing about uniformity, certainty and speed in procedural law of the country for promotion

and protection of the human rights system which had developed so meaningfully through centuries in terms of political freedom. Viewed in this light, Jayadev II had brought about a progressive change in the background condition of operative dharmic system on the foundation of which Hindu-Buddhist human rights system had traditionally developed.

Conclusion

In the Lichchavian era of Nepalese history the system of human rights had developed within the framework of dharmic principles. By implication, the Lichchavians had conceived of human rights in terms of collective freedom from the tyranny of *panchalis*, *gosthis* and *sanghas*, and from the inroads of ambitious usurpatory power which virtually tended to be autocratic and *dharma*-defying.

While the power struggle among the Lichchavis, the Varmas and the Guptas and the war of liberation waged by Narendra-dev had dramatized the evolution of the system of human rights in ancient Nepal, Amsuvarma's innovative and systematic approach to the problems of collective freedom as also Jayadev II's legal reforms had provided the climax of far-reaching changes in the human rights standard of Hindu-Buddhist origin.

There is however, an abrupt drop-scene. The ancient history of Nepal suddenly falls into the abyss of dark age interrupting thereby the continuum of human rights system. By the time the history picks up its thread, the era of medieval Nepal had already dawned. so, the conclusions of this study are of tentative nature, and it will remain so until the historical chasm is bridged by research and scholarship throwing new light on the development of human rights.

Notes

1. Dr. D. R. Regmi (*Ancient Nepal*, 1960, p. 160), observes that "definite limitation on individual liberty" in the Lichchavi State, such as, "gratutious compulsory service" *(visti)* happened to be the contribution of the Gupta system of absolutism as obtained in the then India. The Nepalese autocrats, despite this Gupta influence, never ceased to respect popular feeling even in their most absolutist days. "While the Lichchavi rule might have tended to resemble despotism - but the thought of promoting the popular well-being and the dread of the past tradition which certainly limited that absolutism, was uppermost in their minds."

Numerous inscriptions of the Lichchavi period bear eloquent testimony to the fact that both the Lichchavi King and the people constantly bore in mind the restraining influence of *dharma* (see, Vajracharya op. cit. Ins. Nos. 17, 22, 50, 58, 60, 77, 115, and 146.)

2. Dr. D. R. Regmi, idem.

3. See Supra Chapter IV, Panchali System, Vajracharya and Shrestha op. cit, pp. 9-18.

4. Regmi J. (1978), op. cit. p 237;

5. Jha (op cit. p 137)says that after the defeat at the hands of Manadeva the Guptas who were the rulers of the territory between the Kosi to Gorakhpur were 'possibly prevailed upon by the Lichchavi rulers or by their own desire to enter into the services of the government of Nepal. 'In Manadeva's time however they did not occupy any position of special importance. It was in Vasantadeva's peaceful rule they captured' almost all the important posts of the government'. Vajracharya and Tek Bahadur (op cit. p. IO) are of the view that the Guptas influence upon the

Lichchavi royal palace was not an accident of history but a premeditated plan. Regmi, D. R. (op. cit. pp. 159 & 180) identifies the Guptas as the descendants of the Abhira Guptas who had extended their influence in the Valley of Kathmandu before the ascendancy of Vasantadeva.

Vajracharya also supports (op. cit. pp 170 - 173) this view on the basis of the Pashupati inscriptions of Abhira Gomini, Regmi, J. (1978) argues on the basis of epigraphic evidence that the Guptas' dominating influence over the Lichchavi kings had begun to exert ever since the time of Anuparama Gupta, that is from the time following the death of Manadev (AD 505). He also points out that for 135 years following the rule of Manadev I, there was struggle for power among the Lichchavis, Abhira Guptas and Varmans, but the struggle was more or less bloodless.

6. The origin and history of the Varmas are obfuscated in the web of controversies. Some scholars have identified them as Rajputra (Rajputs) that is, Kshatriyas. D.C. Sircar (Unhistrocity of the Kaunu Dimahatsava, JAHRS Vol XU 1937 - 38) is of the view that the Varman dynasty was in existence in the Kingdom of Magadha though the play Kaumudi in Mahotsava may be 'fantastic'. Jha (op. cit. p. 145) suggests that the Varmas were a group of the Guptas as distinguished from the Abhira Guptas. The Varma Guptas did not enjoy any special position of importance till the rise of Amsuvarma, a nephew of the Lichchavi King Siva Deva, who gave up the surname or title of Varma, towards the end of his rule when he assumed the title of Maharajadhiraj (Regmi J. op cit p 5; Regmi J (1978) op. cit. pp 8, 40 - 41 & 140), Vajracharya, op. cit.pp 295 - 296 & 400), Vajracharya and Shrestha, op. cit. pp. 12 - 13, & 16. The political status and role of the Varmans in the Lichchavi period has been

dealt with in details by Regmi. J. (1978), op. cit. pp 40 - 47 & 234 - 236.

The Guptas had religious bias against the Buddhist and the Buddhist Bhikhus were not happy about it (see Vajracharya, op. Cit p. 369).

7. Jha, op. cit. pp 136 - 139; Gopal and Verma, op. pp. 48 - 49; Vajracharya, op.cit. pp. 91 - 95; 122 - 125; 132 - 134, 139, 155 - 159, & Vajracharya & Shrestha, op. cit. 9 Regmi J. (1978) op. cit. pp 109 & 112 - 113.

8. Ravi Gupta has been identified as a member of Abhira Gupta family which represented as a very influential group of noblemen in the Lichchavi court. About his official position, however, there are different scholarly views. Some scholars are of the view that Ravi Gupta was just one of top officials in the Lichchavi administration who exerted considerable influence upon the ruling Lichchavi King. (see Jha, op. cit. p 138; Regmi. J. (1978) op. cit. pp. 48, 111, 112 & 220 - 221). There are other scholars who say that a system of dyarchy prevailed in the Lichchavi State, and such a system so far the present available evidence had been introduced by King Basantadev and Ravi Gupta, and that Ravi Gupta wielded power next only to that of the sovereign Lichchavi ruler. (see Vajracharya, op. cit. pp 119 - 120, 139 & 149; Gopal and Verma op. cit. p. 34 & 49) Vajracharya & Shrestha, op. cit. p 9 - 10) On the basis of epigraphic evidence it can be asserted that Ravi Gupta by AD 435 (the Patan Bhalukha Inscription of the time of Basantadev, Vajracharya, Ins. No 24) had become sufficiently powerful as the titles of Sarvadandanyaka Mahapratihara indicate. Towards the end of his life Ravi Gupta seemed to have assumed *de facto* sovereign power as the Balambu Pasinkhya, Chowkitar and Pashupati Aryaghat Inscriptions (Vajracharya Nos 29, 31 & 32) indicate. The powers and functions of

Sarvadandanayaka and Mahapratihara have been explained by Vajracharya (see op cit. pp 114 - 119).

9. By BS 589 Jestha i.e. AD 533 King Basantadev and Ravi Gupta were dead and gone (see Vajracharya, op. cit. pp. 149 & 156; Vajracharya & Shrestha, op. cit. p 10). But Regmi. J. (1978) makes some reservation in accepting the epigraphic evidence of the end of King Basantadev's rule in AD 532 because he argues not until AD 538 another name of Lichchavi ruler appears, while King Manadev's rule seems to be of a short duration, although he does not find sufficient reason to reject this evidence (see op. cit. pp. 113, 115 and 221)

10. The identity of Kramalilah is yet to be established firmly. Some scholars identify him as a descendant of the Gupta family (see Jha, op. cit. P 145 & Regmi, D.R. op. cit. p.), but others regard him either born or blue blood (see Vajracharya, op. cit. pp. 149 - 150) or as a king as chieftain who himself or his ancestors had to acknowledge the suzerainty of the Lichchavi sovereigns (see Gopal & Verma, op. cit. p. 49 & 55). According to Regmi J (1978), Kramalilah was just one of the influential noblemen in the Lichchavi Court. Referring to his titles of Maharaja Mahasamanta, he says, Kramalilah can be regarded as chief of all Samantas in the Kingdom of Lichchavi who was stationed in the capital city, and who functioned as a liaison officer as well as head of the central government offices. He was perhaps second only to the king in holding authority in the Lichchavi State (see Regmi J (1978) op. cit. pp. 111 - 112, 203, 208 & 20 - 228).

11. King Manadev ruled at least for 41 years (see Jha, op. cit., p. 136; Vajracharya pp 10, 16, 28 - 30, 86, 95 & 176; Vajracharya & Shrestha, op. cit. pp. 8 - 9; Gopal and Verma, op. cit. p. 48; Regmi J. (1978), op. p. 218). Despite this long rule there was no political crisis which threatened to violate

the peace and tranquility of the kingdom. Manadev was in power till his last days of rule and no struggle for power ever occurred during his rule. The achievements particularly in the field of socio-economic development bear eloquent testimony to the existence of political stability during Manadev's rule. (see Vajracharya & Shrestha, op. cit. pp. 8 - 9, 19).

12. Vajracharya, op. cit. pp. 150, 156, 176 & 558; Vajracharya & Shrestha op. cit. pp. 9 - 11; Regmi J. (1978) op. cit. pp. 221 - 223, 227 & 237. With the passing away of King Manadev, after a long rule, the members of group rivalry among the noblemen in the court of the Lichchavis began to show up openly, threatening to engulf the whole fabric of Lichchavian society by the rage of struggle for power as a result, Ravi Gupta, leading his group, rose to power, probably with the help and cooperation of Maharaj Mahasamanta Kramalilah, who on his part, however, failed to read the writing on the wall and assumed dictatorial power creating the political issue of collective freedom which Ravi Gupta with tacit if not explicit consent of King Basantdev had recognized as the basic tenet of the policy of granting the right of self-rule to the poeple. It was only when Bhauma Gupta, the son of Ravi Gupta, came to power that the process of achieving collective human rights was taken up and political stability restored.

13. Jha, op. cit. p. 138; Vajracharya, op. cit. p. 150; Gopal & Verma, op. cit. pp. 49, 51 & 55; Vajracharya & Shrestha, op. cit. p. 10; Regmi J. (1978), op. cit. p. 112 & 222 - 223.

14. Vajracharya, op. cit. pp. 111, 125, 137, 157, & 194 Vajracharya & Shrestha op. cit. pp. 10 & 19.

15. Vajracharya, op. cit. pp: 149 - 150; Vajracharya & Shrestha op. cit. pp. 76 - 80. But

according to Regmi J. (1978) (op. cit. pp. 48, 220 - 221 & 224), it was the family background in general and the influence of Virochana Gupta (see, Vajracharya, op. cit. p. 108) in particular that helped Ravi Gupta to rise in power; Kramalilah was not a mentor but a successor of Ravi Gupta (ibid, pp. 224).

16. Vajracharya, op. cit. p. 150; Vajracharya & Shrestha, op. cit., p. 11. But Regmi J. (1978) (op.cit. pp. 223 - 224 & 227) is of the view that Kramalilah happened to assume power after the death of Ravi Gupta under the circumstances of non-availability of able successor in the Gupta family and that it can be said on the basis of the Mrigasthali inscription of the time of King Ramdev that he became virtually a *de facto* ruler towards the end of his life or career.

17. Vajracharya (op. cit. p. 176) is of the view that the sloppy Sanskrit used in the inscriptins of the period is also indicative of the then prevailing unstable condition; it is possible that owing to political tension and group rivalry the quality of education also deteriorated and, as a result, mastery of the language of Sanskrit also suffered a setback. See also Vajracharya & Shrestha, op. cit. p. 11; Regmi J. (1978). op. cit. pp. 223 & 237.

18. Vajracharya & Shrestha, op. cit. pp. 11 & 79; Regmi J. (1978), pp. 224 - 225 & 237. It is significant that the first available inscription of Kramalilah's time (the Pashupati Bhasmeshwar inscription of Dhurva Sangha; Vajracharya Ins. No. 34) does not mention the name of Kramalilah. From this fact it can be conjectured that Dhruva Sangha, being a supporter of Ravi Gupta, ignored the importance of Kramalilah in order to play down his image; but it is also possible that Kramalilah was then not in a position to exert his influence effectively (see, Regmi J. (1978), op. cit. p. 224).

19. The two inscriptions dated AD 532 refer to King Basantadev's inscriptions of Chowkitar (Vajracharya No. 31 p. 145) and Pasinkhya (Vajracharya No. 32 p. 147); the inscription dated AD 545 (Sambat 467) refer to Ramdev's inscription at Mrigasthali (Pashupati) which is dated Sambat 467, and not Sambat 469 as given by Gnoli (see Vajracharya op. cit. p. 175) and Gopal & Verma, op. cit. p. 65 (footnote 123).

20. Vajracharya, op. cit. pp. 150 & 176; Vajracharya & Shrestha, op. cit. p. 12 (footnote 9); Gopal and Verma. op. cit. p. 55; Regmi J. (1978) op. cit. pp. 55 - 56 & 223.

21. Vajracharya, op. cit. p. 176; Vajracharya & Shrestha, op. cit. pp. 76 - 79.

22. Vajracharya, op. cit. p. 326; Gopal & Verma, op. cit. pp. 22 - 23; Vajracharya & Shrestha, op. cit. p. 76.

23. Regmi J. op. cit. pp 340, 414 & 420; Vajracharya, op. cit. p. 327; Vajracharya & Shrestha, op. cit. p. 79.

24. Vajracharya, op. cit. p. 331; Vajracharya & Shrestha, op. cit pp. 79 - 106

25. Vajracharya, op. cit. pp. 122 - 125; Vajracharya & Shrestha op. cit. pp. 76 - 79.

26. Vajracharya, op. cit. Ins. Nos 31 & 32

27. Chowkitar is located a quarter of miles north-west of Balambu in the Valley of Kathmandu. At present this place is just a paddy field with no human habitation around.

28. East of Balambu, across the river, lies the place called Pasinkhya.

29. Vajracharya, op. cit. pp. 151 - 152, Vajracharya & Shrestha, pp. 78 - 79.

30. See Chapter III pp.

31. See Chapter p.

32. Vajracharya op. cit. pp. 145 - 148; Vajracharya & Shrestha pp. 79 - 80.

33. Vajracharya, op. cit. p. 176, 165 - 167; Vajracharya, op. cit. pp. 10 & 11. But Gopal and Verma (op. cit. pp. 49 - 50) express doubt in relying only on statement of the Vamsavali of the King Jitamitramalla of Bhaktapur in ascertaining the order of succession after King Basantadev, in the absence of epigraphic evidence to support such a statement. Regmi, J. (1978), on the other hand, places the name of Gunakamadev after Manadev, on the basis of numismatic evidence of 'gunanka' the commemorative copper coins, believed to be issued by Gunadev or Gunakamdev, who according to the Vamshavali of King Jitamitramalla succeeded King Mauadev. (see, op. cit. p. 116) Vajracharya (idem) places Mauadev immediately after Basantadev on the basis of various Vamsavalis including King Jitamitramalla's as well as on the basis of the language script of the inscription which has been found at Budhanilkantha (Kathmandu Valley) and bears the name of Mauadev identified as Manadev of the Jitamitramalla Vamsavali. So far only two definitely dated inscriptions - one of King Vamandev and the other of King Ramadev have been found which bear the dates Sam 460 (AD 538) and Sam 467 (AD 545) respectively, covering the period of Kramalilah's domination.

34. Vajracharya, op. cit. p. 176; Gopal & Verma, op. cit. pp. 49; Regmi J. (1978), op. cit. p. 223.

35. Regmi J. (1978), op. cit. pp. 223 - 224.

36. op. cit. p. 228.

37. Bhauma Gupta was a descendant of the

Abhira Gupta family. His father, Anuparama, was a well known figure in the Lichchavi society and his wife, Abhira Gomini, took pride in calling his the song of 'Paramabhimani'. Some scholars suggest that these names, Anuparama, Pramabhimani and Abhira are pseudonyms and that the name Anuparama can be identified with Ravi Gupta and Paramabhimani with Virocana Gupta; and some scholars suggest that since the pseudonym Paraabhimani smacks of a title for politically eminent persons it most probably referred to Ravi Gupta. In other words, they suggest that the name Anuparama is the real name of the father of Bhuama Gupta. Similarly, some scholars are of the view that Gomini is the only real name of Bhuama Gupta, while Abhira was used to indicate the family identity only. Bhuam Gupata is identified with the person of the same mentioned in the Kavalpur Inscription of Dhruvadev and Jisnugupta, in which, BhaumaGupta is addressed as 'our grand-father'. ManaGupta is yet another Gupta descendant which finds mention in the inscriptions as elder great grand father of Jisnu Gupta. (see, Regmi J. op. cit. pp. 15 - 20; Regmi. J 1978) op. cit. pp. 225 - 226, 228 - 229; Vajracharya, op: cit. pp. 162, 171 & 173, 184, 417; Gupta & Verma op. cit. pp. 50 - 51, 54, Vajracharya and Shrestha, op. cit. p. 11.)

38. Bhauma Gupta had assumed the power as Mahapratihara Sarvadanayaka by AD 557, He however, finds mention for the first time in the Pashupati inscription of Abhira Gomini (dated AD 540) as her son, which is indicative of the importance that was given to Bhaum Gupta as the distinguished family member of the Gupta family which was in influence despite the rise of Kramalilah. (see, Regmi J. op. cit. pp. 15 - 17); Regmi J. (1978) op cit. pp. 118 - 119, 228 - 229; Jha, op. cit. p. 140; Vajracharya, op. cit. p. 184, Gopal and Verma. op. cit. p. 52; Vajracharya & Shrestha, op. cit. pp. 11

- 12).

39. The use of the title Lichchavi-Kulaketu before the name of king Shivadev, on the one hand, and the discontinuation of the royal like title of 'Sri' before the name of Bhauma Gupta are indicative of significant change in the status of reigning Lichchavi monarch and *de facto* Gupta rulers. (see Vajracharya, Inscription No. 54) Almost all scholars of ancient Nepalese history are unanimous that this inscription stands as a solid proof of the beginning of downfall of Bhuama Gupta (see Regmi J. op. cit. pp. 19 - 20; Regmi J. (1978), pp. 230, 232 - 233; Vajracharya, op. cit. pp. 194, 201, 212, 214, 217, 226, 227, 235 - 236) Gopal & Verma, op. cit. 54 & 57, Vajracharya & Shrestha op. cit. p. 12 - 13.

Most of the scholars of ancient history of Nepal assume that Bhuama Gupta was ousted in struggle for power between the Guptas and the Varmans. There are, however, difference of opinion as to whether the struggle was peaceful or violent. Vajracharya (op. cit. pp. 226 - 227, 292 - 293) infers from epigraphic evidence that Bhuama Gupta was forcibly ousted from power. He says the fact that he was stripped of the title of 'Sri' is indicative of a plot to remove him from power. This is supported by the fact that he could not be succeeded by his own men but by those of the Varman groups. The use of the phrase like 'prithusamarasampatanir jayadhigata satrapukshya pravawayna', in the early inscriptions of Amsuvarma's time, Vajracharya opines, also indicate that violent struggle had ensued in removing Bhuama Gupta from, power, and that Amsuvarma had master-minded the plot. R.C. Majumdar says, "It is probable that the great Baron (Mahasamanta) Amsuvarma took the leading part in the war of liberation against the attacking Abhiras towards the close of the sixth century A.D. and distinguished

himself as a great general. "(see, 'Northern India after the Break-up of the Gupta Empire' in *The Classical Age*, Bharatiya Vidya Bhavan, 194, p85. Jha (op. cit. pp. 140 and p 143) assumes that it was the Gupta's perfidy which created the trouble in the Lichchavi kingdom. Gopal and Verma are of the view that since it can be safely inferred on the basis of available inscription that Bhuama Gupta was alive until AD 590 and since Amsuvarma was actually associated with the administration of the kingdom of Sivadev only from AD 594, 'there might have been some struggle and or conspiracies to influence the king and occupy the position fallen vacant after the death of Bhauma Gupta' during these four years (see, op. cit. p. 54). They also infer from 'the low tone of the inscriptions' about 'some internal trouble' during these four years (see, op. cit. p. 57) But, Regmi J. (1978) is of the view that the political struggle in the Lichchavi kingdom had always been peaceful, the struggle which resulted in the ouster of Bhauma Gupta was no exception. This is supported, Regmi argues, by the fact that Jisnu Gupta and Visnu Gupta had staged a come-back after 31 years of the Varma domination.

He however agrees that Amsuvarma had a big hand in overthrowing Bhuama Gupta from power (see Regmi J. (1978), op. cit. p. 233 - 234, 237).

40. See Vajracharya, Insc. No. 50 (pp. 200 - 201); Vajracharya & Shrestha, op. cit. p. 12; Regmi. J. (1978) op. cit. 00. 230 - 231.

41. Vajracharya, op. cit. pp. 216, 226 - 227, 233 - 236; Vajracharya & Shrestha, op. cit. p. 13 Regmi. J. (1978), op. cit. 227 - 228, & 233.

42. See Vajracharya op, cit. inscription No. 55 & 58 (pp. 214 - 216, 225 - 227, 233 - coresponding to Gnoli XXXII, XXXIV; Regmi J. (1978) op. cit. pp. 233-238.

43. Regmi J. op. cit. pp. 371 - 377, U. N. Sinha, op. cit. pp. 63 - 64.

44. Bhuama Gupta is generally identified as the son of Ravi Gupta alias Anuparama and the grand-son of Virochanagupta alias Paramabhimani; but Regmi J. (1978) thinks the pseudonym Paramabhimani most probably referred to Ravi Gupta, and Anuparama was the son of an Abhira Gupta with a pseudonym of Paramabhimani and was a poet and philosopher rather than a poltician (see, Regmi J. (1978) op. cit. pp. 220 & 225.

45. (Om Sarvadhandanayaka Sri Bhuma Gupta's submission we are pleased to issue this inscription of royal order of freedom from control of all four Adhikarans including Lingvala and Mapchowk on matters even relating to 'pancha-aparadh' (the Five Crimes).

All inscriptions relating to different villages of Sitatikatala bear the same above wordings. (see Vajracharya, Ins. Nos. 44, 45, 46, 48 and 49 and pp. 193. See also, Vajracharya and Shrestha, op. cit. p. 80).

46. Apparently Amsuvarma with his name ending with 'Varma' can be identified as a descendant of the Varma family. But it is not so. The scholars of Nepalese history are not at one about his origin. Some argue on the basis of Amsurvarma's inscriptions (in which he has declared Udayadev as his heir-apparent) that Amsuvarma was also a Lichchavi by birth and that Udaya Dev was his eldest son (see, Babu Ram Acharya, Sharada, Kathmandu, Vol. 12, No. 9; ibid, 'A Brief Account of Ancient and Medieval Nepal, in *Nepal: A Conspectus*; ed. Kamal P, Malla, Kathmandu, 1977 p. II). But, others like Dhanavajra Vajracharya (see op. cit. pp 295-296), point out that Udayadev was described as heir apparent Yuvaraj only to express

his loyalty and evolution to the Lichchavi royal family and to indicate his sincere wish that a scion of the Lichchavi family should succeed him. Udayadev, therefore, was not the son of Amsuvarma. Surya Bikram Gewali regards Amsuvarma as a scion to a Thakuri family on the basis of available historical materials (see, Gewali, *Nepal Upatyaka Ko Madhyakalin Itihas,* Royal Nepal Academy, Kathmandu, 1926, pp. 16 & 20; ibid, ibid, 'Political History' in *Nepal in Perspective* CEDA, Kathmandu, 1973, p. 48. Balchandra Sharma' *Nepal ko Itihashik Rup Rekha;* Varanasi, 1951, pp. 87, 100 - 101. The use of the symbol of the moon instead of the sun in Amsuvarma's coins, the absence of his name in the geneology inscribed by Jayadev II, and the absence of Lichchavian end-name (dev' do indicate that Amsuvarma was not a born Lichchavi. Gopal and Verma (op. cit. p. 55) infer from the similarity of titles attached with the names of Kramalilah and Amsuvarma could be 'the son, grandson or one of the successors of Kramalilah'. It is noteworthy that the end-name' dev' was not used by Kramalilah also. The Gopal Vamshavali refers to Amsuvarma as a nephew of king Shivadev. It is believed to be the oldest reference to Amsuvarma and more reliable than the Bhasa Vamshavali, which has described Amsuvarma as son-in-law (Vajracharya, op. cit. pp. 237 & 295). Prof. Levi supports the Bhasa Vamshavali in this regard (see. Balchandra Sharma, op. cit. p. 86) by referring to a Bada Kazi's Vamshavali. Dr. Jayaswal says Amsuvarma was adopted by king Shiva dev and also made a successor (see, idem, Regmi J. is of the view that it is contradictory to regard Amsuvarma as the father of Udyadev in the face of the Jayadev II inscriptions of Geneology, and that it is misleading to call Amsuvarma a descendant of a Thakuri family on the basis of the Bhasha Vamshavali compiled in the 18th or 19th century. He opines that the end-

name Varma clearly indicates that he was not a Lichchavi (see, op, cit. pp. 5-6, 20 - 21). In fact, Regmi J. (1978) is positive about the identity of Amsuvarma. He says Amsuvarma belonged to the Varman family group, (see, op. cit. pp. 40 - 42). Manadev II had given away his daughter in marriage to a member of the Varman family. By establishing matrimonial alliance with the Varman group which was powerful next only to the Abhira-Guptas, Manadev II had expected to maintain the balance in the traditional group rivalry which seemed to tilt in favour of the Abhira Guptas and thereby threaten political stability and security of the ruling Lichchavi dynasty, since the time of Ravi Gupta. Amsuvarma was the offspring of this marriage and therefore, a grandson of Manadev II; that is why, the *Gopal Vamshavali* refers to Amsuvarma as a nephew of Shiva dev, who seemed to have succeeded king Manadev II (Regmi J (1978) op, cit, pp. 80, 115 - 124, 140 - 141).

It was because of the political circumstances arising out of the traditional group rivalry and the familial relationship existing between Amsuvarma and the rulers of the Lichchavi dynasty combined with Amsurvarma's ambition, ability and political acumen that made Amsuvarma what he was for thirty-one years (AD 590 - 621). The *Gopal Vanshavali* States that Amsuvarma was the king for 43 years (see Vajracharya op. cit. p. 237) who quotes the *Vanshavali* p. 22.

Although Amsuvarma's name is found for the first time in the inscription dated AD 594, that is four years after Shivadev's first inscription in which the name of Bhuama Gupta is found, yet the era of Amsuvarma can be said to have begun around AD 590 when the downfall of Bhauma Gupta had already been worked up by Amsuvarma and others, and king Shivadev, consciously or unconsciously

was beginning to take side of the Varma group led by Amsuvarma.

All available inscriptions by Amsuvarma or on Amsuvarma reveal that he was living till Sambat 45 (AD 621) (see, Vajracharya, op. cit. Ins. Nos. 93, pp, 378 - 379; Ins. Nos. 104 & 105 & 105 pp. 398 - 403; Regmi J. (1978) p. 150). As his inscriptions show, he ruled on his own for 16 years (Sambat 29 - 45) and was succeeded by his heir-apparent Udayadev.

47. Some scholars believe that Shiva-dev started his career as a king in AD 576 (Sambat 498) after his brother Ganadev's death or after some revolution; that for fourteen years that is till AD 590 (Sambat 512, which dates these earliest inscriptional record of Shivadev, he had no better position than his predecesors with Bhuama Gupta still in power. According to this view the very existence of Manadev II is questioned and ignored in establishing the chain of Lichchavi King's succession.

48. See Vajracharya, op. cit. pp. 216, 293; Gopal and Verma, op cit. p. 57. and Regmi J. (1978), op. cit. pp. 133 - 135.

49. Inscriptions relating to Amsuvarma can be categorized into two main types: First type includes those which were issued with Shiva-dev I (Vajracharya Ins. No. 57 (?), -70); second type are those which were issued independently (Vajracharya Ins. Nos. 71 - 93 and (94 (?) - 103 (?). All these 47 inscriptions directly or indirectly indicate the contributions which Amsuvarma made for collective good and human rights development as understood in the Hindu-Buddhist context.) See Vajracharya op. cit. pp. 231 - 397; Regmi J. (1978), op. cit. pp132 - 150. Vajracharya Ins. Nos. 58, 59, 60, 61, 66, 67, 68, 70, 71, 73, 75, 82, 84, & 85 clearly record Amsuvarma's reforms for collective good

and freedom As for the chronological basis of these inscriptions see Narayan Raj Pant, op cit. p. 1 - 3.

50. Vajracharya, op. cit. pp. 333 - 335.

51. Supra pp. 107 - 108 and n 46

52. Supra, nn 46 & 47

53. Supra, nn 46 & 47

54. Vajracharya, op. cit. 331 - 335.

55. The term 'panchali' came in vogue in Amsuvarma's time only although the idea connoted by the term was prevalent long before Amsuvarma's rule. (see Vajracharya and Shrestha op. cit. pp. 76 - 81.

56. Vajracharya, op. cit. p. 246; Gopal and Verma, op. cit. pp. 5, 35 and 58. Vajracharya & Shrestha, op. cit. p. 83. Regmi J. (1978), op. cit. pp. 141 - 143.

57. Regmi J.op. pp. 258 - 259, 311. Jha. op. cit. pp. 187 - 188. Vajracharya, op. cit. pp. 163 - 164, 322.

58. Amsuvarma's religious policy is best recorded in his Hadigaon inscription, dated Sambat 32 (AD 610). It contains a long list of gods and goddesses, temples and Viharas, and mundane establishments and institutions like *panchali, gosthi,* irrespective of their religious denomination, which were entitled to receive a share as a status - symbol from the fund known as Sravanika-dana raised from each household on the basis of the value of its assets. See. Regmi J. op. cit. p. 26. Regmi J. (1978) op. cit. p. 143. Vajracharya, Ins. No. 77, and pp. 320 - 322; Gopal and Verma, op. cit. p. 5; 18 - 19.

59. Supra, n and Vajracharya op. cit. p. 259

60. Supra, n 56

61. See, Vajracharya, Ins. No. 77, op. cit. p. 320 - 322; Vajjracharya and Shrestha opine that it was in accord with the tradition of ascribing socio-religious sanctity to *panchali* that the notion of 'pancha parameswor' continued to prevail down to modern historical time. (see, Vajracharya and Shrestha, op. cit. p. 82) See also Gupta and Verma, op. cit. pp. 17 - 18, and Regmi J. op. cit. pp. 414 - 416, 420 - 421.

62. See, *ibid*, see also Regmi J. op. cit. pp. 335, 340 Regmi J. (1978) op. cit. p. 143. *Cultural Heritage of Nepal*, ed. R. S. Verma, Allahabad; Kitab Mahal, 1972 pp. 86 - 90. Vajracharya and Shrestha, op. cit. pp. 88.

63. Vajracharya, op. cit. p. 246; Vajracharya & Shrestha, op. cit. p. 83.

64. Vajracharya, op. cit. pp. 276, 309 - 313. Vajracharya and Shrestha op. cit. pp. 76 - 77, 89 - 90.

65. See Vajracharya, op. cit. Ins. No. 58

66. See ibid, ibid, Ins. Nos. 59 & 67

67. See ibid, ibid, Ins. No. 65

68. See ibid, ibid, Ins. No. 60; although the name Yupagrama dranga is missing in this inscription, it is assumed by the author that since the inscription was found in Patan (Lalitpur the grama dranga referred to in this inscription was yupagrama-dranga (see Vajracharya, op. cit. p. 220)

69. See Vjaracharya, op. cit. p. 247.

70. See, Vjaracharya, op. cit. Ins. No. 61

71. See, ibid, ibid, Ins. No. 62

72. See, ibid, ibid, Ins. No. 63

73. See, ibid, ibid, Ins. No. 69

74. See, ibid, ibid, Ins. No. 68 and U.N. Sinha, op. cit. p. 79 According to Vajracharya (op. cit. p. 277) these ceremonial processions were probably related to the worship of Lord Pashupatinath.

75. See, Vajracharya, op. cit. p. 276, and supra, pp. 74 and 78 - 79.

76. See, ibid, ibid, Ins. No. 70. This inscription is dated Sambat 526 (AD 604).

77. See, ibid. ibid. pp. 284 - 288, see also, supra, pp. 80 - 81.

78. See, Vajracharya, op. cit. Ins. Not 71, pp. 290 - 294; see also Regmi J. (1978).

79. Supra, n. n 46 and 47

80. Vajracharya, op. cit. pp. 297 - 299; Vajracharya & Shrestha, op. cit. pp. 56 - 67.

81. Vajracharya, op. cit. pp. 298 - 299; Vajracharya & Shrestha, op. cit. pp. 65 - 57.

82. See, Vajracharya, op. cit. Ins. Nos. 73 & 74

83. See, ibid, ibid, Ins. No. 78

84. See, ibid, ibid, Ins. No. 83

85. See, Vajracharya, op. cit. Ins. Nos. 81 & 85.

86. See, ibid, ibid, Ins. No. 84.

87. Amsuvarma issued thirteen inscriptions with Shiva-dev as reigning king, and eighteen more inscriptions were issued either by as himself own or there in his name. There are fifteen more inscriptions which accordiing to Vajracharya (op. cit. Ins. Nos. 75, 80, 87, 90, 91, 94 - 103) were issued

at the time of Amsuvarma, by himself or others, but most of them are worn out badly.

88. Vajracharya, op. cit. pp. 242, 335; Gopal & Verma, op. cit. pp. 34 - 37, 59, 61. Regmi J. (1978) op. cit. pp. 138, 140, 146 & 150.

89. On the basis of inscriptional evidence Jisnu Gupta is identified as the grandson of Bhauma Gupta and the great grandson of Man Gupta Gomi. There is no evidence to indicate who his father was nor is there any clue about his wife. His son, Vishnu Gupta, succeeded him after his death which seemed to have taken place in AD 633 (Sambat 57). Sridhar Gupta is identified as the son of Vishnu Gupta and therefore the grandson of Jisnu Gupta. (see, Vajracharya, op. cit. pp. 403, 436, 440; see also Regmi J. (1978), op. cit. pp. 50 - 51) and Balchandra Sharma, op. cit. p. 100.

90. Udayadev is identified as the son of Shiva-dev I and the father of Narendra-dev. Almost all scholars of Nepalese history reject the view of Baburam Acharya that Udayadev was the eldest son of Amsuvarma (see Baburam Acharya, *Sharada* Vol. 12, No.9) Bal Chandra Sharma, op. cit. p. 99; Jha, op. cit. pp. 111 - 112; Vajracharya, op. cit. pp. 295 - 296 & 559; Gopal and Verma, op. cit. pp. 59 - 60; Regmi J. (1978), op. cit. 150 - 152.

Udayadev is also identified as the first Lichchavi Crown Prince to be formally declared as such the first Lichchavi king to assume the title of 'Maharajadhiraja' and the first king in the Nepalese history to make matrimonial alliance with Tibet by giving away in marriage his daughter to the Tibetan King *Sron-bTsan-sGam-po*. The traditional view is that Amsuvarma's daughter Bhrikuti was given away in marriage to the Tibetan king, but since the latest epigraphic evidence indicate that Amsuvarma died in harness in AD 621 (Sambt 45 - on the basis of

Sumatitantra evidence) Vajracharya, op. cit. p. 3000, (Gopal & Verma, op. cit. p. 59) and since the scholars are of the view that this matrimonial alliance took place in AD 628 or 631 or 641, the traditional view has become untenable. (see, Gopal and Verma op. cit. pp. 59 - 60) Regmi J. (1978) op. cit. pp. 78 - 79, 144 - 146, 151 - 152, 234 - 236; see also Vajracharya, op. cit. pp. 355 - 356).

The Scholars also differ as to whether or not Udayadev fled the country to take refuge in Tibet (see Balchandra, Op. cit.p. 99; Vajracharya, op. cit. p. 400, Gopal and Verma, op. cit. p. 60 Regmi J. (1978) p. 151.

91. Some scholars are of the view that dyarchical system of government was introduced by. Jisnu Gupta and Dhurva Dev for the first time (see Regmi J. op. cit. pp. 7 & 21 Regmi J. (1978) op. cit. pp. 152 - 153 and Jha, op. cit. pp. 150 - 151) whereas some others think this system was introduced at the time of Shivadev and Amsuvarma's time (see, Bal Chandra Sharma, op. cit. pp. 92 - 93); Still others opine that such a system was introduced in Lichchavi King Vasantadev's time with sarvadandanayak mahapratihara Ravi Gupta and maharaja maha-samanta Sri Kramalilah as the collateral rulers with constitutional positions slightly below the sover-eign ruler (see, Vajracharya, op. cit. pp. 120 & 150; Gopal and Verma, op. cit. pp. 34, 48 - 49)

Although Jisnu Gupta had shrewdly calculated that he could do without a Lichchavi king on the throne for the maintenance of peace and stability in the Kingdom, he asumed all those royal titles and descriptions which would elevate him to the position of a ruler; besides usurping royal power, he declared his son Vishnu Gupta as 'yuvaraj sri' (Crown Prince) and added in his own name and Lichchavi end-name 'dev' and issued coins in his own name. Jha, (op. cit. pp. 150 - 152) interprets

this behaviuoral tendency on the part of Jisnu Gupta as nothing but 'arrogance'. Regmi J. (op cit. pp. 22 - 23 and (1978) op. cit. pp. 152 - 156) thinks that all these titles and descriptions indicate that Jisnu Gupta was in fact more powerful than the Lichchavi king Ɖhruva - dev. Vajracharya says that Jisnu Gupta did not occupy the Lichchavi throne, but by his behaviour and action he tried to impress upon his people that he was the real ruler. By adding the Lichchavi end-name 'dev' in his name, he excelled even Amsuvarma though he did not rule independently as Amsuvarma did. (see Vajracharya, op. cit. pp. 403 - 404, 428, 436 and 440). Visnu Gupta's inscription at Changunarayan refers to Jisnu Gupta as a king (see Vajracharya op. cit. Ins. No. 119).

92. Regmi J. (1978), op. cit. p. 237.

93. Vajracharya (op. cit. pp. 418) and Vajracharya & Shrestha (op. cit. pp. 92 - 93). assume that the grant which has been mentioned in the Kewalpur Inscription (Vajracharya Ins. No. 109) with reference to Nupapunna Dranga's help and cooperation to Jisnu Gupta can be interpreted as a gesture of recognition of people's support which Jinsu Gupta got in dethroning Udayadev. So far as Dhruvadev's role in *coup de'eta* is concerned, some scholars opine that he had played a leading role and had ousted his brother Udayadev perhaps with the help of Jisnu Gupta'. (see Gopal and Verma, op. cit. p. 38) Vajracharya (op. cit. p. 409) also thinks that learned and popular Jivadev of Dakhinakoligrama may have actively supported Jisnu Gupta in ousting Udayadev in favour of Dhruvadev.

94. See, Vajracharya Ins. No. 105 (pp. 401-403). This inscription is dated Sambat 48 (AD 624).

95. Vajracharya Ins. 106, 108 & 109; see also Regmi J. (1978) op. cit. p. 153.

96. ibid, Ins. Nos. 110, 111 & 115; also Regmi J. (1978) op. cit. p. 154.

97. Not much is known about Dhruvadev. He was perhaps the younger brother of Udayadev, and therefore the son of Shiva dev. He issued his first joint inscription with Jisnu Gupta in AD 624 (Sambat 48) which indicate that he was made king around that year after the overthrow of Udayadev. He was dead by AD 631 (Sambat 55) see Jha. op. cit. pp. 150 - 152; Vajracharya op. cit. pp. 401, 405, 407, 409, 411, 414 & 429; Gopal & Verma, op. cit. p. 38 Regmi J. (1978), op. cit. pp. 153 - 154.

98. About Bhimarjunadev also not much is known. Some scholars opine that he was the brother or son of Dhruvadev (see Jha, op. cit. p. 152 and Gopal and Verma op. cit. p. 61) but others say the relationship between them is not yet clear (see Varjarcharya, op. cit. p. 421 & Regmi J. (1978) p. 154). He issued his first joint inscription with Jisnu Gupta in AD 631 (Sambat 55) and his last inscription is dated Sambat 65 (AD641) which indicate that he was the Lichchavi sovereign for ten years (AD631 - 641) with Jisnu Gupta and then Visnu Gupta as the collateral ruler. (see Vajracharya, op. cit. pp. 419, 423, 433, 436, 442, 448 & 460 and Regmi J. (1978) op. cit. pp. 154 - 158).

99. This is the last joint inscription of Bhimarjunadev and Jisnu Gupta, for after four months of the issuance of this inscription dated Sambat 57 (AD 633). Jisnu Gupta's place and position was taken over by his son Visnu Gupta. It is in this inscription the Lichchavi end-name 'dev' has been attached to the name of Jisnu-Gupta and he himself has been described as 'somanwayadhusan for the first time and, on the other hand Bhimarjunadev was stripped of the title of 'maharaja and given the title of 'singhaadhyashikulaketu' which according to Vajracharya (op. cit. p. 436) is

very significant, for the ambitious Jisnu Gupta seemed to put on record that Bhimarjunadev was enthroned by his help as the legitimate claimant of the Lichchavi throne and that he was the real ruler as he belonged to 'soma' vamsa (lunar dynasty), that is, the traditional Hindu ruling class of Kshatreya.

100. Before the publication of *Purnima* No. 20, the date of this inscription was taken to be Sambat 59 (AD 635) on the basis of Gnoli, Ins. No. 56. But now it is clearly established that this cannot but be Sambat 57 (AD 633) (see Vajracharya, op. cit. p. 433). But it is noteworthy that some scholars still seem to adhere to Gnoli date of Sambat 59, as for instance, Regmi J. has repeatedly used this date on pp. 154 - 158 while dealing with Bhimarjunadev and Jisnu Gupta and Visnu Gupta. (see Regmi J. (1978) pp. 154 - 158) despite the fact that Regmi's work has been published after five years of Vajracharya's work referred to above.

101. Visnu Gupta is clearly identified as the son of Jisnu Gupta, and the father of Sridhar Gupta on the basis of available inscriptional evidence (see Jha, op. cit. p. 155, Vajracharya op, cit. pp.436 & 440; Regmi J. (1978), op. cit. p. 51) The inscription located at Maligaon of Kathmandu is identified as the first inscription issued by Visnu Gupta, because it bears the name of Shridhar Gupta as Dutaka Yuvaraj though the name of sovereign ruler is worn out and destroyed. Also because it bears the date Sambat 57 (AD 633) which is also found in the last available inscription issued by Jisnu Gupta. (see Vajracharya op. cit. pp. 436 & 440) Visnu Gupta is found as Yuvaraj in the inscriptions dated from Sambat 48 (AD 624) to Sambat 57 (AD 633) - Gnoli's date sambat 59 is proved wrong. While the Maligaon inscription seemed to be issued by Visnu Gupta in his own name by himself, the two other inscrip-

tions located at Lagantole Yangahal-hiti of Kathmandu (Sambat 64) and at Sunaguthi Bhrigaraeshwor (Sambat 65) were issued jointly by Bhimarjundev and Visnu Gupta, and the last one located Changunarayan temple (date missing) was issued by Visnu Gupta after completion of the repair work of water-spout built by his father Jisnu Gupta. Visnu Gupta's rule commenced on Sambat 57 (AD 633) and since his last inscription is dated Sambat 65 (AD 641) it is conjectured that Narendra-dev had staged a coup in that very year and thus ousted Bhimarjunadev and Visnu Gupta. (see Vajracharya, op. cit. pp. 436, 440, 453 & 460; Regmi, J. (1978) op. cit. pp. 157 - 158). So Visnu Gupta's *de facto* rule seemed to have lasted for about eight years. But Regmi. J. (1978) has based his calculation of Visnu Gupta's rule on the basis of Gnoli's date of Sambat 59 (AD 635) and allowance of two more years joint rule of Jisnu Gupta and Bhimaarjune dev. He, therefore concludes that Visnu Gupta rule lasted only for five years (AD 638 - 642). (see Regmi J. op. cit. p. 158.

102. Vajracharya, op. cit.p. 440; see also Jha, op. cit. p. 155.

103. Ibid.

104. The next dated inscription after the joint inscription of Bhimarjun Dev and Vishnu Gupta which is dated Sambat 65 (AD 641) is that of Narendra-dev which is dated Sambat 67 (AD 643). Therefore Vajracharya (op. cit. p. 460) concludes that between AD 641 to AD 643 Narendra-dev had staged a coup to overthrown Bhimarjuna-dev and Visnu Gupta. When the Chinese Ambassador Wang Hiuen Tse had arrived in Nepal in AD 643 Narendra-dev had already been enthroned. (see also Gopal and Verma, op. cit. pp. 8, 33, 34, 52 & 60; Regmi J. (1978) op. cit. 237 - 238); Baburam Acharya, 'A Brief Account of Ancient and Medieval Nepal: in

Nepal A Conspectus, Kathmandu 1977, p II.

105.Vajracharya Ins. N. 116

106. Vajracharya Ins. No.117

107. Vajracharya, op. cit. pp. 116, 444.

108. Vajracharya Ins. No. 118, pp. 448 - 450

109. Vajracharya, op. cit. pp. 450 - 460, Vajracharya and Shrestha, op. cit. pp. 94 - 95.

110. ibid, ibid

111. ibid, ibid

112. The Pashupati Inscription of Jayadev II (see Vajracharya Ins. No. 148, p. 548 - 552) records that Udayadev was succeeded by Narendra-dev. When Udayadev was ousted by Dhruvadev in collaboration with Jisnu Gupta, Narendra-dev had escaped to Tibet. From this fact Regmi J. (1978) makes out that Narendra-dev was the eldest son of Udayadev and therefore Yuvaraj, an heir-apparent, to the Lichchavi throne, and that in order to save his life as the next in line after Udayadev he had betaken himself to Tibet, around the year AD 623. (Sambat 47). (see Vajracharya No. 134). Narendra-dev seemed to have ruled from the traditional residence of the *de facto* ruler, namely, Kailashkuta Bhavan for the initial 22 years and for the following 14 years he seemed to have shifted his residence to a new palace called Bhadradhibas Bhawan (see Vajracharya, op. cit.. pp. 293 - 295 & 491; see also Regmi J. (1978) op. cit. pp. 144 and 164) which was obviously built by himself Narendra-dev assumed the title of 'Maharajadhiraja' which was first used by Amsuvarma outwards the end of his rule. In AD 651. Narendra-dev had sent a Nepalese delegation to the Court of Chinese Emperor (see, S. Levi, Le Nepal, I, pp. 156 ff.) Nerendradev was a unique personality (see Regmi J. (1978) op.

cit. p. 159 He had achieved much progress in various spheres of Lichchavian life. Indeed his rule marked a turning point in the history of ancient Nepal. He proved his worth as a jewel among the Lichchavi kings and the full moon of the Lichchavi firmament. (See Anantalingesvara inscription of Narendra-dev, numbered 129 by Vajracharya, op cit. p. 485). Narendra-dev's last inscription, as noted above, is dated sambat 103 (AD 679);

113. "Completely weeding out the opportunist Guptas from the political life of the country", Jha observes (op. cit. p. 156) "Narendra-dev revived the glory of the Lichchavis---" and adds, in a footnote (op. cit. ibid, n. 4)" In the inscription of Narendra-dev no member of Gupta family is found, so it seems that this family lost its political importance." (see also Vajracharya, op. cit. p. 461; Regmi J. (1978) op. cit. pp. 159 - 160 & 238. Vajracharya and Shrestha, op. cit. p. 96.

114. There are epigraphic evidence, annalistic records and historical traditions to support the view that Narendra-dev had been morally and materially aided by foreign power duing the war of liberation launched by him against the Abhira Guptas, the archenemy of the Lichchavis. The Bhansarchowk inscription of Narendra-dev (AD 643) - Vajracharya, Ins. No. 123, refers to the infantry and cavalry forces which Narendra-dev had used to the battlefield. The Chinese sources as quoted by S. Levi in *Le Nepal Paris*, 1905 (Vol. II, p. 166) say Narendra-dev had recovered his paternal throne with the military assistance given by Tibetan King Srongbstan Sgam-po. Regmi. D. R. (op cit. p. 189 - 190), relying on the Chinese sources, observes that Vishnu Gupta had to give in before a combined attack on his forces by Narendra-dev and his Tibetan and Chinese allies. Jha, (op. cit. p. 156), relying on the *Journal of the Royal Asiatic Society*, 1880, p 529 - 30; *Journal*

of the Bihar and Orissa Research Society, 1936, pp. 238 and Regmi, p. 177, observes that Narendra-dev was given "not only refuge but also valuable military help with which he was able to discomfit his foes and capture the throne. While scholars differ as to the status of Narendra-dev in view of his acceptance of 'service' from the Tibetan King, the real question is whether or not he 'had to subordinate Nepal to Tibet a *quid pro quo* for Tibetan mililatry assistance, or for alignment, in modern terms of international relations. In this respect Jha has advanced most convincing argument (see. op. cit. pp. 156 - 157): by his diplomtic skill Narendra-dev was able to influence the Tibetan potentate to accept the nominal annual tribute only in recognition of his service and to keep himself (Narendra-dev) free from any other obligations 'Narendra-dev was apparently free in deciding the destiny of his country and establishing intercourse with any country he liked' (Jha).

115. See, Majumdar, ibid, ibid, Jha, ibid, pp. 156 - 160, 164 - 165. Rose, ibid, pp. 10 - 12; Gewali, ibid, ibid, Acharya, ibid, ibid, Regmi. D.R. ibid. Regmi. J (1978) ibid pp. 161 - 163.

116. "His long rule of at least 37 years may be taken to suggest that he caused the flow of serenity and contentment pervade this land of the Himalayas" (Jha, op. cit. pp. 162 - 163). In the inscription dated Sambat 78 (AD 654) the beginning of Narendra-dev's rule has been heralded as the commencement of 'satya-yuga' - The First or Golden Age (See Vajracharya Ins. No. 127.) Babu Ram Acharya observed: "The Lichachavi kingdom, in fact, attained the zenith of progress during the reign of Narendra-dev and his successors." (see, Acharya, opp. cit. p. II), Regmi J. 1978) says the phase of Nepalese history which began to develop during the rule of Manadev I (AD 505) can be said to have

come to an end around AD 641 (about this time Bhimarjundev and Vishnudev were overthrown signalizing thereby the end of the dyarchical system of Lichchavi rule which had been introduced during Manadev I successor's Bansantadev's time). One of the reasons for treating this phase of history contained within a block of 135 years of time is political - the political conflict and instability, however peaceful they may, characterise this period. After Narendra-dev assumed power, the following 91 years of the Lichachavi Kings' rule is marked by unprecedented political stability and peace, development of new horizon of freedom, and inception of assertive regional role of Nepal, particularly in relations to India and China. (see, Regmi J. (1978) op. cit. pp. 158, 237 - 239).

117. Vajracharya & Shrestha, op. cit. p. 96; Vajracharya Ins. No. 123.

118. Jha, op. cit., pp. 164 - 165.

119. Vajracharya, op. cit. p. 461

120. The term Pittalja Adhikarna occurs for the first time in the Bhaskarchowk inscriptions of Narendra-dev. But the inscription does not mention the duties and responsibilities of this Adhikaran. (see Vajracharya & Shrestha, op. cit. p. 57).

121. Vajracharya, op. cit. p. 461; Vajracharya & Shrestha, op. cit. pp. 57 & 96.

122. idem idem idem idem.

123. Vajracharya, & Shrestha, ibid, p. 97

124. Vajracharya, ibid, p. 466

125. ibid, p. 465 - 467, ibid, p. 97

126. Idem.

127. Idem, Vajracharya & Shrestha, op. cit. p.

97

128. Vajracharya, op. cit. pp. 474 - 77 (Vajracharya Ins. No. 126);

129. Vajracharya Ins. No. 132.

130. Vajracharya, op. cit. t pp. 483 - 844;

131. Vajracharya, op. cit. pp. 484, 502 - 506; Vajracharya & Shrestha, op. cit. pp. 98. n. I

132. Vajracharya, Ins. No. 128

133. Vajracharya, op. cit. pp. 483 - 484, Vajracharya & Shrestha, op. cit. p. 99.

134. ibid; ibid.

135. Vajracharya Ins. Nos. 133 & 134

136. Vajracharya (op. cit. p. 504) thinks that the present-day 'Baudha' could be identified as Shivadev Vihar.

137. Vajracharya, op. cit. pp. 504 - 506; Vajracharya & Shrestha, op. cit. p. 98.

138. ibid, ibid.

139. Vajracharya Ins. No. 129.

140. Vajracharya, op. cit. pp. 487 - 489.

141. Regmi J. (op. cit. pp. 255 - 316) has devoted a chapter on the state of religion in the Lichchavi period. This gives a comprehensive idea about the various religious sects which existed in the Lichchavi Kingdom. see also Jha, op. cit. pp. 181 - 187; Vajracharya, op. cit. pp. 483 - 484. and Gopal and Verma, op. cit. pp. I - 12.

142. Vajracharya and Shrestha, op. cit. p. 99

143. Vajracharya (op. cit. pp. 331 & 461 - 462) is of the view that the panchali system continued

to develop through the medieval history of Nepal so effectively, despite the absence of the Lichchavi rulers, that the need of Adhikarans was not much felt in administrative management of the country. The absence of Adhikaranas in the medieval Nepal is explained thus.

144. Shivadev II is identified as the son of Narendra-dev. His first dated inscription is that of Nala in Bhaktapur which bears the date Sambat 118 (AD 694) (see Vajracharya, op. cit. p. 512 (Ins. No. 138) On the one hand, Narendra-dev's last inscription is dated Sambat 103. AD 679. Who was the ruler in the gap of fifteen years (AD 694 - 679)? is yet to be determined.

145. Vajracharya Ins. No. 139.

146. ibid. Visti has been defined as compulsory unpaid labour to be contributed by the people compulsorily for accomplishment of task in a foreign country, or for accomplishment of a work of public welfare or of a royal nature. *Bhota* means Tibet. Therefore Bhota-visti means visti contributed at the time of official trip to Tibet. (see, Vajracharya, op. cit. p. 517) see also Regmi J. 1978) p. 167 & n. 2. Those who evaded visti would be fined (Vajracharya, op. cit. p. 518).

147. Vajracharya Ins. No. 140. This inscription is dated Sambat 121 Gnoli inscription shows it as Sambat 125 which is wrong (see *Purnima* No. 20, p. 186).

148. Vajracharya Ins. No. 143. This inscription is dated Sambat 125. But Gnoli inscription shows it as Sambat 109 which is wrong (see *Purnima* No. 20 p. 186) The term 'phalanju' has not been explained by any scholar of Nepalese history.

149. Vajracharya, op. cit. p. 533; Vajracharya & Shrestha, op. cit. p. 100.

150. From the available historical and epigraphic evidence it can be asserted that there arose no critical situation, mainly owing to the traditional group rivalries, which could lead to internal political conflict, instability and loss of freedom. However, Levi, Majumdar and others point out on the basis of the Chinese sources that Nepal had fought a war of liberation against Tibet in AD 702 (or AD 703; see Regmi, D.R. op. cit. P. 162 without any success. (See Levi, op. cit. pp. 173 ff Majumdar, op. cit. p. 138) But according to Hsin-T' ang-Shu *(New Tang History)*, Po-na edition, 1835, Nepal had fought another war in AD 704 - 705 in which the Tibetan king had been killed. On the basis of this Chinese account, Regmi J. (1978), op. cit. p168 argues that since this date falls within the period of Shivadev's rule, it can be assumed that this war was fought by Shivadev and had won it, although, in the absence of further evidence it cannot be said as to what kind of benefits he had derived as a consequence of this war.

How far this war affected the development of human rights cannot be made out from the available historical, inscriptional and other evidence, but it can be assumed that since a war by its very nature creats abnormal situation, the period of Shivadev's rule cannot be regarded as peaceful and conductive one entirely to the progressive growth of the system of human rights. In the aftermath of war the people might have been deprived of some of the rights which in terms of modern political theory are called some of the the rights which in terms of modern political theory are called 'fundamental rights'. see. Regmi J. op. cit. p. 195.

151. Datewise, the first inscription of Jayadev II is dated Sambat 137 (AD 713); but since Shivadev's last inscription is dated Sambat 129 (AD 705) it is assumed that Jayadev had succeeded his father

Shivadev between AD 705 to 713. Again on the basis of inscriptional date Jayadev II assumed to have ruled at least upto Sambat 157 (AD 733 see Vajracharya op. cit. pp. 541 - 542, 548; Regmi J. (1978) p. 175 - 177). But on the basis of evidence of *Sivadharmasastras* (a palm leaf manuscript preserved in the Bir library Kathmandu) it is assumed that Jayadev II was probably alive and ruling in or around Sambat 189 (AD 765), for in this year only Shankaradev II is found ruling (see *Itihas Prakash*, Pt. I. p. 159).

Thus the period of 144 years following the end of the rule of Jayadev II, epigraphically speaking, is a blind spot of Nepalese history. Regmi J. (op. cit. p. 180) thinks that internal trouble, royal palace intrigue, external aggression, social upheaval, could be some of the reasons for this historical gap. Vajracharya (op. cit. p. 560) and Vajracharya & Shrestha (op. cit. pp. 18 & 106) express surprise at the occurrence of this abrupt end of glorious rule of the Lichachavis, despite the fact that Jayadev II is seemed to have nursed the ambition of expanding his kingdom (parachakra-kama) and maintained good neighbourly relations wiht the powerful Indian Kingdoms.

Jayadev II was endowed with very many sterling virtues. He is remembered as the first Lichchavi poet-king and a great innovative reformer of the Lichchavi dynasty.

Some eight inscriptions have been identified as belonging to Jayadev II or his time. Of these, six (Vajracharya Ins. Nos. 145, 146, 147, 148, 149, 150) throw much light on the reforms which Jayadev II carried out in order to make freedom and human rights more meaningful for the ordinary people of his Kingdom.

152. Vajracharya, op. cit. p. 570, Vajracharya

& Shrestha, op. cit. p. 101.

153. See Vajracharya, Ins. Nos. 149 & 150.

154. Vajracharya, Ins. Nos. 146, 149 & 150.

155. ibid, op. cit. p. 576 - 577, Vajracharya & Shrestha, op. cit. pp. 104 - 105. Dhanavajra Vajracharya,' Lichchavikal ko Nyayavyavastha ko ek Jhalak' *Purnima* 16 Vol. Kathmandu, 2024, pp. 349 - 350 as quoted in Vajracharya & Shrestha, op. cit. pp. 104 - 105.

156. No royal inscriptions recording decrees, ordinanaces and the like have been found after Jayadev's. Only some inscriptions of private individuals put up in commemorations of sacred occasions have been found which show up some names of Lichchavi kings. It is only from this view point these inscriptions are of some historical importance (see, Vajracharya, op. cit. p. 581, Regmi J. (1978) op. cit. 175 - 176. Vajracharya & Shrestha, op. cit. p. 18.

157. Ibid op. cit. p. 599; ibid., op. cit. pp. 178 - 180 & 239 - 240. The last dated Lichchavi inscription discovered to date bears the date of Sambat 271 (AD 847). It is found on the water-bowl dedicated to a deity and placed near the main entrance of the Changunaryan temple (see, ibid, op, cit. Ins. No. 180 p. 595). The Last dated Lichchavian period manuscript is that of the Sahotara-tantra, which bears the date of Sambat 301 (AD 877) which is preserved in the Kaiser Library, Kathmandu.

158. ibid., Ins. No. 149.

159. ibid, op. cit. pp. 570 - 572; ibid., op. cit. pp. 101 - 3

160. ibid., op. cit. Ins. No. 150; pp 575 - 576; ibid., op. cit. pp. 103 - 105.

161. Ibid. op. cit. Ins. No. 146; pp. 545-546; ibid

op. cit. pp. 105-106.

162. ibdi., op. cit. Ins. No. 145; pp. 541.

Conclusion

The Hindu-Buddhist culture has nurtured through the centuries a system of human rights though the term "human rights" was not in usage in the Asian culture. *Dharma*, as the quintessence of Hindu-Buddhist culture, had a catalytic effect in moulding the nature and development of human rights in ancient Nepal. The concept of *dharma*, rooted as it is in the Vedic ideas and tradition, can be identified as one of the original notions of human rights in Hindu-Buddhist tradition; but, how feasibly a model of human rights system as structured on the Hindu-Buddhist concepts of *dharma* and freedom can be implemented regionally, if not universally, is, of course, a different question.

However, there is no confusion about the term *dharma*. Though it has been variously defined and interpreted, its essence clarifies the basic meaning of human rights as understood in the Hindu-Buddhist context. For, *dharma* is not only the ideal set in the sacred texts but also a reality of life which changes with time and circumstances creating a new synthesis, such as, the syncretic culture of Nepal, which is marked by the spirit of 'live and let live'. *Dharma* constitutes the very basic ingredient of Hindu-Buddhist life, and so the idea of human rights in the Hindu-Buddhist context is inconceivable

without the consideration of the concept of *Dharma*. Every individual is born with *dharma* and if a person were to fail in *dharma,* he or she would be liable to lose some or all rights. In the scheme of Hindu-Buddhist pattern of thought and way of life, there is no idea of inalienable rights. The balance of *dharma* determines the prevalence of a Hindu-Buddhist system of human rights.

In evaluating the concept of *dharma* the idea of religion and mythology should not be overemphasized and forced into a dominating position. *Dharma* has a connotation wider than that of religion, of mythology or varnashram *dharma*. In interpreting human rights of Hindu-Buddhist origin the emphasis ought to be on the idea of collectivity and collective freedom which is implied by *dharma* rather than on casteism and the mythological models of gods and goddesses. It is the all-pervasive imperative of *dharma* that inspires Hindus and Buddhists to emulate epic figures such as Krishna, Ram, Sita, Savitri, Gautam Buddha, Mahatma Gandhi and the like. The cult of personality or sacrilged individual or the dignity of the individual and his inalienable rights - heroism, in short, is not stressed in Hindu-Buddhist culture. Ram, for instance, is worshipped by the Hindus, not because he is an ideal individual with inalienable rights but because he embodies the idea of Hindu *dharma*.

The Lichchavians had developed the idea of freedom based on the dharmic principles. They had conceived human rights in terms of collective freedom from the tyranny of the king, the ambitious usurpers and the central authorities. The protection and development of freedom of the *panchalis, gosthis* and *sanghas* was conceived as *dharma* par excellence in the Lichachavian era. The King and the people did not worship gods and

goddeses for the sake of worshipping but for the sake of *dharma*. They did not clamour for individual rights either. The people demanded freedom from central authority for the sake of a whole village or a group of villages or a socio-religious groups like gosthis; the King recoginsed such freedom in principle and gave the opportunity for enjoyment of such freedom on the basis of the balance of *dharma*.

Dharma is anti-heroic in character, and so is the dharmic system. The Lichchavian society was dharmic and collective freedom was enshrined in the royal charters and directives inscribed on stones. *Dharma* and not religion was the guiding principle of the Lichachavian State. It was therefore not a theocratic state; in fact, ample evidences have been unearthed to show that widespread tolerance was practised by the Lichchavian rulers.

On the basis of the contemporary state of knowledge and research in the area of ancient history of Nepal it is concluded that the genesis of Nepalese syncretic culture can be traced to the Lichchavian society. But during the last three thousand years of evolution of Hindu-Buddhist culture, neither the Nepalese society nor the concept of *dharma* could remain impervious to the changing patterns of thought and ways of life, introduced by waves upon waves of immigrant civilizations including the civilization of western origin which came along with the colonial powers in the Asian region. In medieval Nepal, for instance, the imposition of orthodox Hinduism and rigid caste system had brought about a change in the connotation of *dharma*. This innovation, by implications, led to kind of social terrorism owing to invidious caste discrimination and social hierarchy. With the advent of unification of Nepal in modern times, a change in the Nepalese ethos was marked

by the Grand Proclamation of King Prithivi Narayan Shah the Great, which declared that Nepal is 'a garden of four *varnas* and thirty-six *jats*', that is, the King, under the impact of British colonial power knocking at the door, felt that his *dharma* lay in protection of the people irrespective of their caste and creed. This proclamation harkens to the Lichchavian idea of collective freedom rather than to the English idea of Magna Carta. It is this realisation of the principle of *dharma* which marked the quality of statesmanship in King Prithivi Narayan Shah, the Great.

This present constitutional innovation seeks to adjust the ethos of traditional Nepal with the model of western liberal democracy. The Nepalese society today is passing through a new phase of human rights development. The expression of western concepts of human rights through the political structure of constitutional monarchy eloquently testifies to this phenomenon. The accomodative genius of the Hindus and the Buddhists has once more come to play in synthesizing the cultural values. It is this resilience and capability of the Nepalese political culture which has largely been responsible for Nepal's survival against incursions of alien influences and domination which are ideally favoured by her geo-political situation and economic constraints.

The most formidable challange that Nepal faces today is one of protection of the socio-economic rights of its people living in a traditional society characterised by abysmal socio-economic backwardness, constraint of land-lockedness and the presence of two immediate colossal neighbours. To meet this challenge of survival, peace and development, Nepal in the first place perceives that the best way out is democracy tempered by *dharma* and the United Nations strengthened by more balanced and unified policies and programmes

for peace and security and socio-economic development of the nations of the world. Nepal believes that the best of her traditions and culture of human rights can be protected only under conditions of peace and development. Nepal has been an independent sovereign country throughout history and she believes that the legacy of human rights protection and development under the rubric of *dharma* has come down to modern age only to reinforce her national identity and cultural integrity.

Finally, it is suggested that the model of human rights system as developed by ancient Nepal needs to be studied in an inter-disciplinary perspective for deeper knowledge, understanding of the characterstics of the variables which have gone into the process of its development in the crucible of the Hindu-Buddhist philosophy and ideological underpinnings.

Malla Coins of Nepal

Nirala Series

A Series of Contemporary Writing on Nepal and Buddhism

The Gurkhas
A History of the Recruitment in the British Indian Army
Kamal Raj Singh Rathaur

The Khasa Kingdom
A Trans-Himalayan Empire of the Middle Age
Surya Mani Adhikary

Sources of Inflation in Asia
Theory and Evidences
Raghab D. Pant

The Sherpas : Fire of Himal
An Anthropological Study of the Sherpas of Nepal Himalayan Region
Ramesh Raj Kunwar

A Macro-economic Study of the
Nepalese Plan Performance
Gunanidhi Sharma

Folk Culture of Nepal
An Analytical Study
Ram Dayal Rakesh

Fundamentals of Library and Information Science
A Nepalese Response
Madhusudan Sharma Subedi

Transit of Land-locked Countries and Nepal
Gajendra Mani Pradhan

The Gurungs: Thunder of Himal
A Cross-cultural Study of a Nepalese Ethnic Group
Murari P. Regmi

Gods and Mountains:
The Folk Culture of a Himalayan Kingdom: Nepal
Kesar Lall

Folk Tales of Sherpa and Yeti
Shiva Dhakal

Art and Culture of Nepal
An Attempt towards Preservation
Saphalya Amatya

The Dhimals: Miraculous Migrants of Himal
An Anthropoligical Study of a Nepalese Ethnic Group
Rishikeshab Raj Regmi

Sales Promotion in Nepal
Policies and Practices
Parashar Prasad Koirala

Glimpses of Tourism, Airlines and Management in Nepal
B.R. Singh

The Taming of Tibet
A Historical Account of Compromise and Confrontation in Nepal-Tibet Relations (1900-1930)
Tirtha Prasad Mishra

Dolpo The Hidden Paradise
A Journey to the Endangered Sanctuary of the Himalayan Kingdom of Nepal
Karna Sakya

Secrets of Shangri-la
An Inquiry into the Lore, Legend and Culture of Nepal
Nagendra Sharma

Indo-Nepal Trade Relations
A Historical Analysis of Nepal's Trade with the British India
Shri Ram Upadhyaya

Politics and Development in Nepal:
Some Issues
Narayan Khadka

The Gurkha Connection
A History of Gurkha Recruitment in the British Army

Purshottam Baskota

Lore and Legend of the Kathmandu Valley
Shiva Dhakal

Recent Nepal
The Analysis of the Recent Democratic
Upsurge and its Aftermath
Laksman Bahadur K.C.

Popular Deities Emblems and Images of Nepal
Dhruba K. Deep

Cultural Heritage of Nepal Terai
Ram Dayal Rakesh

The Nepala-mahatmya
Legends on the Sacred Places and Deities of Nepal
Jayaraj Acharya

A Glossary of Himalayan Buddhism
Jagadish Chandra Regmi

Kathmandu, Patan & Bhakatapur
An Archaeological Anthropology of the
Royal Cities of the Kathmandu Valley
Rishikeshab R. Regmi

The Himalayan Mind
A Nepalese Investigation
Murari P. Regmi

Wild Life in Nepal
Rishikesh Shah & Richard M. Mitchell

Politics of Himalayan River Waters
An Analysis of the River Water
Issues of Nepal, India and Bangladesh
B.C. Uprety

The Nepali Congress
An Analysis of the Party's Performance in the
General Elections and its Aftermath
B.C. Uprety

Folktales of Nepal
Yuyutsu R.D. Sharma

Nepal-India
Democracy in the Making of Mutual Trust
Dinesh Bhattarai & Pradip Khatiwada

Making of Modern Nepal:
A History of Art, Culture and polity
of the principalities of Western Nepal
Ram Niwas Pandey

Encounter Wild Life in Nepal
Karna Sakya

Constitutional Monarchy and
Parliamentary Democracy in Nepal
Laksman Bahadur K.C.

Festivals of Nepal
Hemanta Kumar Jha

Bhutan : A Movement in Exile
D.N.S. Dhakal & Christopher Strawn

Mountain Dimensions
An Altitude Geographic Analysis of
Environment and Development in Nepal
Ram Kumar Panday

Columns of Fire
Tara Sharma's book of Nepal

Nepal: A Cultural Scenario
Jagdish Shumsher Rana

Human Rights in the
Hindu-Buddhist Tradition
Lall Deosa Rai

Religious Minorities in Nepal
A Study of Buddhists and Muslims in Nepal
Mollica Dastider

The Questions of Dharma in the Mahabharata
Birendra Mishra

Malla Coins
Jagdish Chandra Regmi

Buddhism in Sravasiti
Sanga Mittra

project evaluation for DRCG.

Rai has published over half a dozen books including, *The Buddha* (translation) and *The Natir Puja* (translation) by Tagore; Very recently he has authorised, *The Newspaper Journalism* (Sajha Publications).

Rai has been studying area of human rights in Hindu Buddhist tradition for last several years. He was associated with CENAS, Tribhuvan University in the study of human rights in Nepal; in this capacity he participated the conference on 'Human Life and Development' held in Colombo, Sri Lanka under the joint auspices of Sri Lanka Foundation and International Coordination Council, Washington DC.

Rai was awarded *His Majesty King Birendra Auspicious Coronation Award* and Asian Cultural Centre for UNESCO Award on photography.

Lal Deosa Rai is head of Department of Journalism and Mass Communication, member, Board of Faculty, Institute of Humanities and Social Science, Tribhuvan University.

NS-44

Nirala Series

Lal Deosa Rai is a well known Nepalese historian today

The book is the first authentic attempt to trace the origin of human rights in Hindu-Buddhist society. The author opens the book with an account of the origin of the notion and meaning of human rights in context of western liberal democracy as distinguished from the Hindu-Buddhist society and moves ahead to explore the meaning of *dharma* or *dhamma* as key concept in understanding the notion of human rights of a Hindu-Buddhist origin. Employing the contemporary state of knowledge and research available in the area of ancient history of Nepal, the author provides a politico-legal background to human rights in the Hindu-Buddhist society. He believes that the *dhrama* had a catalytic effect in moulding the nature of development of human rights in the ancient and medieval Nepal. The Lichchavians had developed an idea of freedom based on dharmic principles and the protection and development of *panchali* , *gosthi* and *sangha* was conceived an act of collective freedom from the tyranny of the despotic rule. It was not a theocractic state and dharma and not the religion was the guiding principle of the Lichchavian State.

The book is a must to human-rights experts, Indologists, historians, political thinkers as well as scholars interested in knowing the state of Buddhism in Nepal.

Pric RS. 400 n

ISBN-81-85693-46-3

Cover Design & Illustration :
Uday Shankar Gangopadhyay

Nirala
Buddhism